

**MEETING AGENDA  
ENVIRONMENTAL PROTECTION COMMISSION  
WALLACE STATE OFFICE BUILDING  
DES MOINES, IOWA  
September 16, 1991**

Meeting convenes at 10:00 a.m., Monday, September 16, in the fourth floor conference room.

**Public Participation**

**10:30 a.m.**

Appointments: City of Ames (Item #11)

1:00 p.m.

Don Ervin (Item #13)

1:30 p.m.

Fred R. Thomas (Item #14-c)

2:00 p.m.

1. Approve Agenda.
2. Approve Minutes of August 19, 1991.
3. Director's Report. (Wilson) Information.
4. Toxic Cleanup Days Contract Approval. (Hay) Decision.
5. Missouri Solid Waste Regions and Districts. (Hay) Information.
6. Budget Request FY 93-94. (Kuhn). Decision.
7. Approval of Contract - Air Toxics Emission Testing. (Kuhn) Decision.
8. Approval of Environmental Monitoring Agreement - University Hygienic Laboratory. (Kuhn) Decision.
9. Monthly Reports. (Stokes) Information.
10. Proposed Rule--Chapter 102, Financial Insurance Mechanisms for Closure and Postclosure Costs at Sanitary Disposal Projects. (Stokes) Information.
11. Stream Use Designation: South Skunk River - Vicinity of Ames. (Stokes) Decision.
12. Proposed Contested Case Decision--Lloyd Dunton. (Combs) Decision.
13. Referrals to the Attorney General--Don Ervin. (Combs) Decision.
14. Referrals to the Attorney General. (Combs) Decision.
  - (a) New Virginia Sanitary District
  - (b) M & W Mobile Home Park (Muscatine)
  - (c) Fred R. Thomas (Delhi)
  - (d) City of Hornick
15. 1992 Legislation Package. (Combs) Decision.

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- 16. Shipley Construction Water Withdrawal Permit. (Stokes) Information.**
- 17. Ed Cain - Channel Change. (Combs) Information.**
- 18. General Discussion.**
- 19. Address Items for Next Meeting.**

### **NEXT MEETING DATES**

**October 21-22, 1991**  
**November 18-19, 1991**  
**December 16-17, 1991**

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ENVIRONMENTAL PROTECTION COMMISSION

Monday, September 16, 1991

NAME

COMPANY OR AGENCY

CITY

(please print)

Maynard Jayne	Lona Catthorn	Ames
Jane M <sup>c</sup> Alister	Ahlens Law Firm	DSM
DAN VEST	GROWMARK, INC.	Bloomington, Ill.
Dr. Devoe	ECOLOGY ENTERPRISES, INC.	OEHLWEIN
Amy Christensen Couch	Wasker Sullivan & Ward	Des Moines
Lo McMillen	Des Moines Water Works	Des Moines
Jane Eakins	Des Moines Water Works	Des Moines
Theresa L. Kuhse	Sen Demo Staff	DSM
Mary Braun	House Dem Staff	DSM
Jack Seenu	ABI	Des Moines
Marilyn Waltherman		Carlisle
Brie Behar	Deere & Co	D. M.
Dale Johnson	Iowa Farm Bureau System	D. M.
Pam Neely	Northern Natural Gas Co.	DSH
Kathy Bergstrom	The Messenger	Fort Dodge
David Adams	Iowa Farm Bureau	W. D. M.

ENVIRONMENTAL PROTECTION COMMISSION

Monday, September 16, 1991

NAME

COMPANY OR AGENCY

CITY

(please print)

Mary Lou HINRICHSSEN Route 2 DeWitt

Tam Fenneman

City of Ames

Donna S Lutz

ISU

Deb Shield

City of Ames

Bruce Wenzel

Iowa State Univ.

Don Eskin

FT Dodge IA

Joe Kelly

ITDA

IA

Cynthia Cain Joannacci

Chicago, IL

Margaret Cain

Preston

IA

Rep. Robert Johnson

Andover

IA

Senator Sheldon Pittner

De Witt

IA

Bob Cain

Charlotte

IA.

Joe Hartung

Preston

Iowa

Ray Peterson

Preston

Iowa

# ENVIRONMENTAL PROTECTION COMMISSION

Monday, September 16, 1991

NAME

COMPANY OR AGENCY

CITY

(please print)

DAN FRIEBERG

IOWA FERT / CHEM. ASSOC.

DES MOINES

Fred Thomas -

FREDDY'S BEACH -  
CLARK-VIEW  
ACHES

DELHI, IOWA

Mark Tinsdell

Bering, Swanson + Forrest

Des Moines

Arlene Gierler

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Senders Initials September 1991  
JG

Minutes of the Environmental Protection Commission Meeting

September 16, 1991

Wallace State Office Building, Des Moines, Iowa

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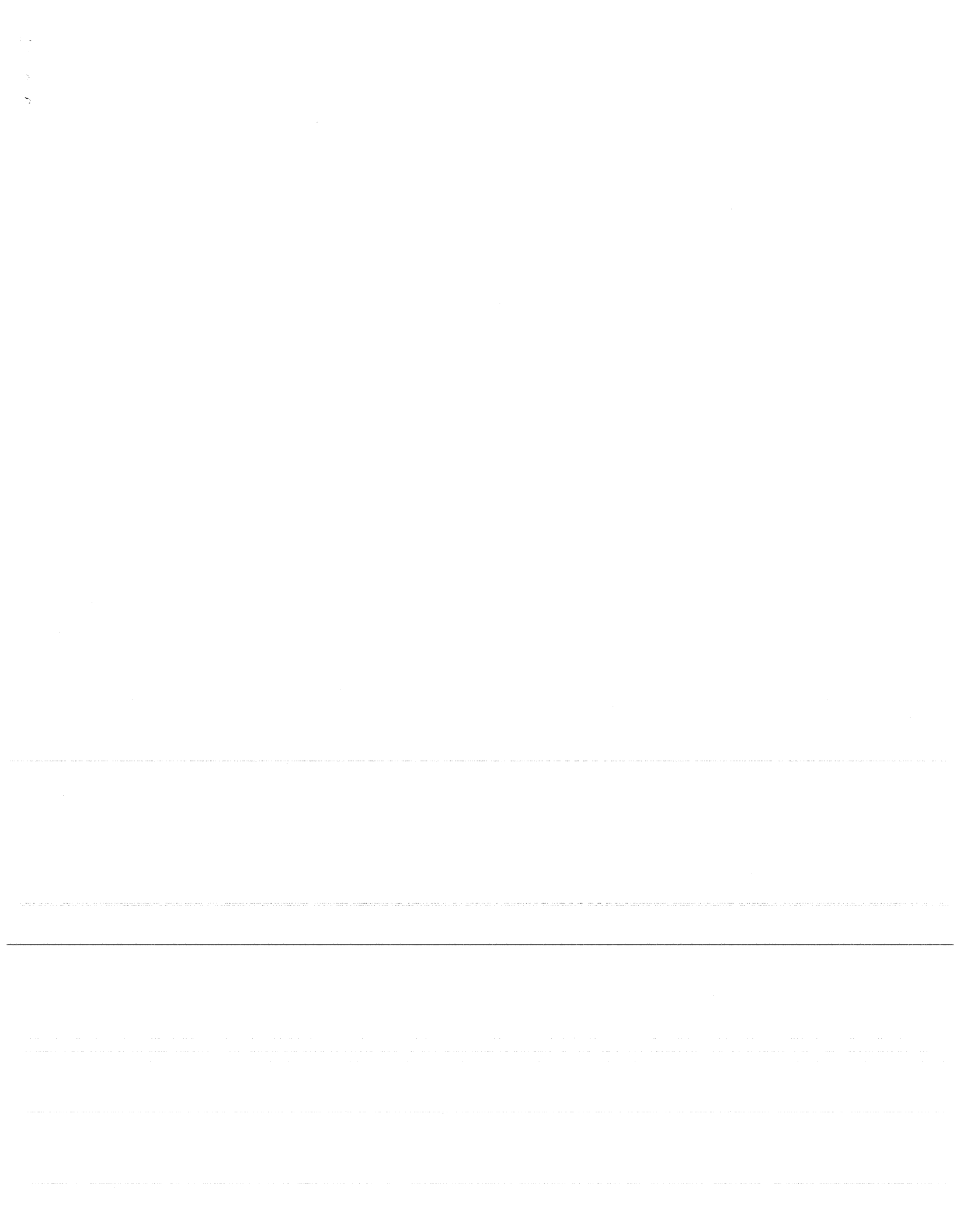


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SEPTEMBER 1991 COMMISSION MEETING

The meeting of the Environmental Protection Commission was held in the Wallace State Office Building, Des Moines, Iowa, convening at 10:00 a.m. on September 16, 1991.

MEMBERS PRESENT

William Ehm, Richard Hartsuck, Rozanne King, Charlotte Mohr, Margaret Prah1, Gary Priebe, Nancy1ee Siebenmann, and Clark Yeager.

ADOPTION OF AGENDA

The following items were added to the agenda:

Appointment - City of Ames (Item #11) - 1:00 p.m.

Appointment - Don Ervin (Item #13) - 1:30 p.m.

Appointment - Fred R. Thomas (Item #14-C) - 2:00 p.m.

*Motion was made by Margaret Prah1 to approve the agenda as amended. Seconded by Gary Priebe. Motion carried unanimously.*

ADOPTION OF MINUTES

*Motion was made by Charlotte Mohr to approve the meeting minutes of August 19, 1991, as presented. Seconded by Margaret Prah1. Motion carried unanimously.*

COMMISSIONER RESIGNATION

Nancy1ee Siebenmann stated that Mike Earley recently resigned from the Commission and she felt it would be nice for the Commission to send him a letter of regret.

*Motion was made by Nancy1ee Siebenmann that the Commission send a letter to Mike Earley in regret of his resignation.*

Commissioner Siebenmann related that she has drafted such a letter and then read it to the Commission.

Nancylee Siebenmann's motion was seconded by Rozanne King. Motion carried unanimously.

#### DIRECTOR'S REPORT

Larry Wilson, Director, reported that he recently attended the dedication of the new Des Moines ICA Regional Wastewater Treatment Plant. He related that it is a state-of-the-art facility and one that the Commission might be interested in visiting. Director Wilson stated that it is a credit to the county, city, EPA, and DNR staff who worked together so well on this project.

#### TOXIC CLEANUP DAYS CONTRACT APPROVAL

Teresa Hay, Division Administrator, Waste Management Authority Division, presented the following item.

Evaluation of the proposals from hazardous waste management contractors to provide services for the fall toxic cleanup days resulted in selection of Laidlaw Environmental Services. Laidlaw provided services for the spring 1991 events and has conducted several previous events without problems. They also provided the lowest bid by several thousand dollars.

Proposals are evaluated on a number of criteria, including ability to adequately staff the collection sites, provide proper safety measures, and cost. Costs were evaluated by an actual schedule of fees, and a cost estimate for a hypothetical collection event (provided in the RFP).

The total cost of the collection events is estimated to be up to \$220,000. The Department is paying for up to \$99,000 of this cost, the remainder being paid by local communities.

A draft scope of work for the contractor is attached.

**ARTICLE IV. STATEMENT OF PURPOSE**

This Contract is entered into to provide an environmentally sound method of collection, transportation and disposal of household hazardous wastes stored in residences or on farms from specific areas or counties in Iowa.

**ARTICLE V. SCOPE OF WORK**

5.1 The Contractor shall provide qualified personnel and sufficient equipment at each of the Toxic Cleanup Day sites for the identification, segregation, packaging and transportation of hazardous wastes. The Contractor shall be solely responsible for and provide adequate staff for segregation and final acceptance of the wastes. Local Organization staff shall be responsible for assisting Contractor staff in off-loading waste from vehicles to the final segregation and packaging area.

5.2 The Contractor shall accept wastes for transportation and disposal from individuals as designated by the representative of the Department at the site. A limit of 220 pounds or 25 gallons of waste will be accepted from each household except as directed by the Department or Local Organization representative. The Contractor shall not accept waste from schools or businesses.

5.3 The Contractor will not be responsible to accept the following wastes:

Explosives, shock sensitive materials, ammunition, unknowns, radioactive materials, or Freon 11 and 12.

5.4 The Local Organizations shall make appointments for citizens to deliver household hazardous wastes to the collection site. The Local Organizations will keep records of the number of appointments, estimate the types and quantities of household hazardous waste that will be delivered to the event and the citizens name and phone number. This information shall be made available to the Department and the Contractor.

5.5 The Contractor shall have staff available to assist the Department and Local Organizations with the appointment system. This assistance shall include providing technical assistance on disposal of household hazardous wastes. The Contractor shall assist the Department and Local Organizations in estimating the cost of disposing of household hazardous wastes that are scheduled by appointment to be delivered to the collection site, at the end of each appointment day or as otherwise requested.

- 5.6 The Contractor shall provide training to Department and Local Organization staff to include, at a minimum, training on the use of protective clothing, basic safety handling procedures for household hazardous waste, and basic safety procedures as referenced in Attachment B. The Contractor will provide an adequate supply of protective clothing for use by Local Organization and Department staff.
- 5.7 A representative of the Department will inform The Contractor before the beginning of each Toxic Cleanup Day the amount of funding allocated to the specific site being serviced. The Department of Local Organization shall curtail operation upon the approximation of the allocation limit. The Service may continue if directed by the Department representative on site. If directed to continue Service beyond the original allocation limit, the Department or Local Organization will compensate the Contractor for any expenses incurred.

The Contractor shall not incur costs to the Department or Local Organizations exceeding the total amount budgeted as stated in Article VIII. Funding.

- 5.8 The Contractor shall be deemed to be the generator for the purpose of federal, state and local laws and regulations, of all wastes accepted at the Toxic Cleanup Days.
- 5.9 The Contractor shall have a valid Environmental Protection Agency identification number as appropriate for generation, transportation and storage of hazardous and acutely hazardous wastes and approval for the wastes to be disposed of at EPA and Contractor approved disposal sites.
- 5.10 The Contractor shall have liability insurance in effect for claims arising out of death or bodily injury and property damage from hazardous and acutely hazardous waste transport, storage and disposal, including automobile liability, and legal defense costs, as evidenced by a certificate of insurance satisfactory to the Department delivered to the Department not later than fourteen (14) days prior to the beginning day of collection.
- 5.11 The Contractor shall package and manifest the waste collected each collection day by the end of each collection day. The Contractor shall transport the wastes from the site within 48 hours of the end of the final day of collection or as soon as possible thereafter.

- 5.12 The title of all waste accepted by the Contractor at the site shall pass directly from the individual to the Contractor at the time of its acceptance.
- 5.13 The Contractor shall indemnify, hold harmless and defend the Department and Local Organizations from and against any liabilities, claims, penalties, fines, forfeitures, suites, and the costs and expenses incident thereto which may be alleged against the Department or Local Organizations or which the Department or Local Organizations may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation or alleged violation of governmental laws, regulations or orders, to the extent that such damage was caused by the Contractor's negligent, willful or intentional act or omission, breach of contract or a failure of the Contractor's warranties to be true, accurate or complete.
- 5.14 The Contractor's bid, in response to the Department's RFP.

Margaret Prah1 asked, in reference to item number 5.10 in the Scope of Work, if the department ever requires a minimum of liability insurance.

Ms. Hay stated that there is not a specified dollar amount in this particular contract but the contractor's proposal is incorporated into the contract, and the insurance amount is typically specified in the proposal.

Commissioner Prah1 stated that she feels the Commission should not approve anything less than the amount of the total cost (\$220,000).

*Motion was made by Margaret Prah1 to table this item until staff can discover the limits of liability required under the insurance provision of the contract. Seconded by Nancylee Siebenmann. Motion carried unanimously.*

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#### MISSOURI SOLID WASTE REGIONS AND DISTRICTS

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Teresa Hay, Division Administrator, Waste Management Authority Division, presented the following item.

Per the Commission's request, the following is a summary of those sections of Missouri's Solid Waste Management Law (SB 530) and technical guidance document pertaining to solid waste regions and districts.

**SOLID WASTE MANAGEMENT REGIONS:** SB 530 requires the Missouri Department of Natural Resources (MO DNR) to divide the state into regions, to encourage cooperation in achieving 40% weight reduction in solid waste by 1998. MO DNR was required to consult with county governments on boundaries and to hold public meetings in each district. The purpose of a solid waste management region is to provide a geographical reference for eventual district formation. Final boundaries were due by June, 1991. MO DNR has formed 19 regions; with a few exceptions, the regional boundaries were drawn to correspond with boundaries of existing regional planning councils.

**SOLID WASTE MANAGEMENT (SWM) DISTRICT FORMATION:** With the finalization of the solid waste management regional boundaries, district formation is underway. A solid waste management district is the political subdivision of a region, charged with the planning and management of the solid waste generated and disposed of within its boundaries. SB 530 allows only one district per region. SB 530 does not mandate that counties join a solid waste management district. However, counties and cities with a population of more than 500 that do not join a district must still comply with SB 530 requirements, which include a 40% solid waste reduction goal, a solid waste management plan, and other solid waste management mandates.

One or more counties within a region may form a district by adoption of ordinance by county government(s) or petition by county voters for a public vote.

**SWM DISTRICT MANAGEMENT:** Each district must have a Solid Waste Management Council or use another structure for its administrative oversight. Each district must have an Executive Board, which is the governing body charged with fulfilling the district's solid waste management responsibilities required by law. The Board's seven initial members are selected by the Council. The Chair of each Executive Board will be a member of the Solid Waste Advisory Board, which will advise the MO DNR about various solid waste management issues.

Solid waste that is generated within the district may be transferred outside the district for disposal, but is subject to the same requirements as the solid waste originating in the district where the waste is to be disposed.

**SOLID WASTE MANAGEMENT PLAN:** Each district must submit a plan within 18 months of the district's formation. If a county is not in a district by 1995, it must submit its own plan by June, 1995. Plan requirements are described in the legislation. Some tonnage fee money is available for plans and implementation.

**Comments:** Missouri DNR officials that staff spoke with stated that, had they the opportunity to start over, they probably would not have formed solid waste management regions that coincide with

existing regional planning councils. They feel that this method of establishing boundaries was misinterpreted by the planning councils as further legitimizing and expanding the councils' roles. They feel that some of the councils have taken advantage of their perceived power by attempting to coerce other local government officials in their regions to accept their agendas.

In addition, the number of landfills varies by region, and it is felt that some regions may have disproportionate burdens in attempting to meet the 40% goal. The regions were not formed to correspond with the flow of waste, so waste flows in and out of regional boundaries. This arrangement may act as an unofficial "import ban" across regional boundaries.

Districts are in the formative stages, and no solid waste management plans have been submitted yet, therefore it is too early for Missouri officials to evaluate these aspects of the process.

Copies of the Missouri legislation are available for those Commissioners who are interested.

Ms. Hay stated that the most distinctive thing about this legislation is that it requires the state of Missouri to establish regions for solid waste management. She further explained how this will be accomplished.

This was an informational item; no action was required.

#### BUDGET REQUEST - FY 93 and FY 94

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The EPC is requested to approve submittal of the FY93/94 budget request to the Department of Management within the following funding and expenditure limits both by source of funding, and by division. Each commission has authority to approve or modify the budget request with their respective areas, and share authority regarding the support functions.

The requested approval by the commissions would define the general approach by the DNR regarding the request. As available the staff will present decision package priority, staffing, and related budget detail for further review and approval.

The DNR is recommending that the commissions approve submittal of a request not to exceed current, FY92 funding because of the State's limited financial resources.



Thus, the budget request would not exceed the following amounts for FY92. FY91 is provided for comparison purposes. Special programs, primarily grants, would continue at the levels supported by their respective funding sources.

Funding Source	FY91	FY92
State General Fund	13,773,490	12,714,893
Fish and Wildlife Trust	18,135,066	17,732,605
Groundwater Trust	2,900,508	3,072,411
Federal and Receipts	14,968,628	48,820,224
Total Operations	49,777,692	48,820,224

Expenditures	FY91	FY92
Director's Office	343,874	242,905
Coordination & Information	2,651,451	2,189,806
Administrative Services	5,478,362	5,134,471
Parks, Preserves & Recreation	8,030,572	7,806,204
Forests and Forestry	2,759,801	2,873,504
Energy and Geology	4,609,026	3,920,691
Environmental Protection	9,609,016	10,068,541
Fish and Wildlife	15,438,944	15,508,131
Waste Mngt Authority	856,646	1,075,971
Total Operations	49,777,692	48,820,224

Approval of submittal of the FY93/94 at the FY92 level, as previously explained, is requested. Detailed financial schedules and priorities will be provided as they become available for further review and approval by both commissions.

Mr. Kuhn gave a brief explanation of the budget. He pointed out that, on Page 1 of the item brief, the amount under Federal Funds and Receipts should be 15,300,315 rather than 48,820,315.

Discussion followed.

*Motion was made by Charlotte Mohr to approve the FY 93-94 Budget Request as presented. Seconded by Margaret Prah. Motion carried unanimously.*

#### TOXIC CLEANUP DAYS CONTRACT APPROVAL (continued)

Chairperson Hartsuck stated that the insurance information requested by Commissioner Prah is now available.

*Motion was made by Margaret Prah to remove the Toxic Cleanup Days Contract Approval item from the table. Seconded by Rozanne King. Motion carried unanimously.*

Ms. Hay reported that the amount of liability insurance carried by Laidlaw Environmental is five million dollars.

*Motion was made by Margaret Prahl to approve the contract for fall Toxic Cleanup Days with Laidlaw Environmental Services, as presented. Seconded by Nancylee Siebenmann. Motion carried unanimously.*

#### APPROVAL OF CONTRACT - AIR TOXICS EMISSION TESTING

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The EPC is requested to approve a contract with Interpoll Laboratories, Inc., Minneapolis, Minnesota, to conduct Air Emissions tests at a cost of \$205,000.

The purpose of the testing program is to develop a data base of emission rates from tire-derived and refuse-derived fuels in industrial boilers. The data will be used by DNR to assist in the development of state policy regarding the appropriate uses of waste tires and municipal waste as a fuel.

This project will be funded through Oil Overcharge Funds from the Stripper Well account. The use of OOC funds as described has been approved by the Department of Energy. Approval of the project and the contract has also been granted by the Energy Funds Disbursement Council.

Requests for proposals were sent to all known firms who have, or who have indicated the ability to conduct emissions tests in accordance with DNR requirements and EPA approved methodology. Sixteen proposals were returned from the 52 firms to whom requests were sent.

Kilkelly Env. Assoc, Raleigh, N.C.	259,100
AIRSOURCE Technologies, Kansas City, KC	289,400
Clayton Environmenta., Novi, Mich.	355,000
Clean Air Eng., Palatine, Il	398,000
EMC Analytical, Inc., Gilbert, Il	326,954
Pace, Inc., Minneapolis, MN	298,800
Pacific Env. Services, Inc., Mason, Ohio	340,740
Entropy Env. Inc., Raleigh, N.C.	453,200
Interpoll, Inc., Minneapolis, MN	252,430
ETS, Inc., Roanoke, VA	355,360
Almega Corp., Bevsenville, Il	169,600
RAMCON Env., Corp., Memphis, TN	259,638
Mostardi-Platt Assoc., Inc., Bevsenville, Il	276,638
MMT Env. Services, Inc., Minneapolis, MN	261,860
International Tech. (PEI), Cincinnati, Ohio	227,340
Bay West, Inc., Minneapolis, MN	347,772

The staff recommends that the contract be awarded to Interpoll, Inc. Their proposal was the lowest cost submission that fully met the testing and methodology requirements specified in the RFP.

Since the review and selection, the number of sites have been reduced, and the specific tests required have been adjusted downward, resulting in an adjusted contract cost of \$205,000.

The review of the proposals was accomplished by a staff committee of four Environmental Specialists and one administrator from the Energy Bureau.

The project budget is as follows:

University of Iowa	\$66,520
John Deere/Waterloo	66,520
Cargill/Eddyville	66,520
Audit Analyses	2,840
Final Report Preparation	2,600
Total	\$205,000

A copy of the RFP and the draft contract, excluding the standard general conditions, is attached for reference. Approval of the commission is requested.

Mr. Kuhn gave an explanation of the contract.

Brief discussion followed.

Margaret Prah1 noted that a copy of the contract was not attached to the item brief. She added that she does not mind approving the concept of awarding a contract but she would not like to approve a contract she has not seen.

*Motion was made by Margaret Prah1 to approve award of a contract to Interpoll Laboratories, Inc., according to the terms set out in the item brief. Seconded by Rozanne King. Motion carried unanimously.*

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#### PUBLIC PARTICIPATION

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Chairperson Hartsuck announced public participation at 10:30 a.m.

#### L.D. McMullin

L.D. McMullin, General Manager of Des Moines Water Works, addressed the Commission stating that he is representing the Iowa utilities as well as Des Moines Water Works. He noted that the

water utility industry is changing dramatically as a result of the 1984 State Drinking Water Act. He related that by the end of 1991 there will be 83 different contaminants that the water utility industry will be working with. There will be 25 additional contaminants every three years following 1991. Mr. McMullin stated that industry is facing a big challenge of meeting these standards and it will take consumers, utilities, and the regulatory community to solve the problems. He added that it is their hope that the DNR, in their budgeting process, will continue to support retaining primacy for the safe drinking water program within the state of Iowa. He stated that local support in handling drinking water issues is needed rather than working remotely with EPA in Kansas City. In conclusion, Mr. McMullin noted that DNR plays a very important role in the drinking water program in Iowa, and related that they want to work with the department to be able to have primacy stay in the state of Iowa.

Hollis DeVoe

Hollis DeVoe asked that he be allowed to address the Commission at 1:30 p.m., when the Don Ervin case is taken up.

APPROVAL OF ENVIRONMENTAL MONITORING AGREEMENT - UNIVERSITY  
HYGIENIC LABORATORY

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The Commission is requested to approve the FFY 1992 Agreement with the University Hygienic Laboratory. The agreement covers air quality monitoring and reporting, water quality monitoring - both ambient and compliance, analyses and reporting for the drinking water program and provision for analyses for the underground storage tank and uncontrolled sites programs.

As per the attached schedule, the total cost of this contract is estimated at \$609,730. This compares to \$594,624 for FFY91.

Under section 455B.103, the DNR is required to contract with the UHL for these services, unless the required services cannot be provided by the UHL. This contract is a continuation of current work efforts and programs, with minor adjustments. The contract costs reflect UHL's best estimate of their actual costs plus the University of Iowa's indirect cost rate. Most of this contract is supported by Federal funds from the various EPA programs.

ARTICLE XI - ESTIMATED AGREEMENT BUDGET

<u>Task</u>	<u>Estimated Agreement Amount</u>
11.1 Air Quality Monitoring (Article 3.1)	
Staff	\$ 182,369
Expenses	31,600
Mileage	12,000
Polk Co. Audit	0
Smoke School	0
Subtotal	\$ 225,969
11.2 Water Quality Monitoring (Article 3.2)	
Fixed Monitoring - Monthly	\$ 83,640
Fixed Monitoring - Quarterly	19,750
CSI's	66,333
Field Support	61,355
Fish Kill	Special Billed *
Emergency Response	22,300
Fish Tissue Monitoring	<u>Negotiated **</u>
Subtotal	\$ 253,378
11.3 Water Supply Monitoring (Article 3.3)	
Section 3.3.e.1 Primary d.w. monitoring	3,100 ***
Section 3.3.e.2 SOC and pesticide	1,200 ***
Section 3.3.e.3 Unscheduled investigations	1,200 ***
Section 3.3.e. Subtotal	\$ 5,500
Reporting UHL analytical data	30,681
Reporting non-UHL analytical data	<u>25,102</u>
Subtotal	\$ 61,283
11.4 Leaking Underground Storage Tanks (Article 3.4)	\$ 13,000 ***
11.5 Uncontrolled Site Monitoring (Article 3.5)	\$ 40,600 ***
Estimated Total Agreement (Maximum)	\$ 594,230

\* Payments for this service will be negotiated on a case-by-case basis.

\*\* Reimbursement for Fish Tissue sample analysis will be determined if Fish Tissue analysis is requested.

\*\*\* Cost of these efforts will be billed to the Department on a monthly basis. Costs will be based on a analytical cost sheet provided to the Department.

NOTE: The UHL and the DNR recognize that the inclusion of the University of Iowa's approved indirect cost is a part of the agreement amount, and that is in dispute. If the Department of Management directs that the Regents' institutions are not to charge indirect costs to other state agencies, the above agreement amount will be reduced by the amount of the indirect cost.

Mr. Kuhn gave a brief explanation of the agreement.

Motion was made by Margaret Prah1 to approve the Environmental Monitoring Agreement with University Hygienic Laboratory for air

and water quality monitoring and reporting. Seconded by William Ehm. Motion carried unanimously.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

(Reports are shown on the following 14 pages)

IOWA DEPARTMENT OF NATURAL RESOURCES  
 ENVIRONMENTAL PROTECTION COMMISSION  
 RULEMAKING STATUS REPORT  
 September 1, 1991

PROPOSAL	NOTICE TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 30 - Temporary Air Toxic Fees	8/19/91	9/18/91	*10/ /91	10/08/91 10/09/91 10/10/91	*11/18/91	*11/18/91	*12/11/91	*1/15/92
2. Ch. 61 - Corps of Engineers Nationwide Permits	6/17/91	7/10/91	8/21/91	7/31/91- 8/05/91	*10/21/91	*10/21/91	*11/13/91	*12/18/91
3. Ch. 102 - Financial Assurance Mechanism for Closure and Post-Closure Costs at Sanitary Disposal Projects	*10/21/91	*11/13/91	*12/ /91	*12/ /91	*1/20/91	*1/20/91	*2/ /91	*3/ /91

\*Projected

## MONTHLY VARIANCE REPORT

Month: August, 1991

No.	Facility	Program	Engineer	Subject	Decision	Date
1.	Blackhawk County Sanitary Landfill	Solid Waste	Brice-Petrides, Donohue	Liner - Asbestos Monofill	Approved	08/01/91
2.	Blackhawk County Sanitary Landfill	Solid Waste	Brice-Petrides, Donohue	Leachate-Asbestos Monofill	Approved	08/01/91
3.	Blackhawk County Sanitary Landfill	Solid Waste	Brice-Petrides, Donohue	Side Slopes Grade-Asbestos Monofill	Approved	08/14/91
4.	City of Linn Grove	Watersupply Construction	Kuehl & Payer, Ltd.	Construction Materials	Approved	08/02/91

## TOPIC: Report of Hazardous Conditions

During the period August 1, 1991 through August 31, 1991, reports of 77 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted below. A general summary and count by field office is attached. These do not include releases from underground storage tanks, which are reported separately.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impact	Responsible Party	Response and Corrective Actions
08/06/91 Jasper	A farmer was changing a valve on a 5000 gallon anhydrous ammonia tank. A weak seal allowed some ammonia vapor to escape from the tank. No injuries or environmental damage was reported. The incident occurred on August 6.	Burton Wilson RR 2 Prairie City, IA	The local fire department responded to the incident. A water fog was sprayed on the plume to control the vapors. The valve was repaired after the plume was controlled.
08/09/91 Marion	Rinse water from a paint booth was accidentally released to a creek when a discharge hose was placed in a storm sewer drain rather than a sanitary drain. 100 gallons of the rinsate pooled in low flow areas of the creek. No impact on aquatic life was reported.	Rolscreen Company 102 Main Street Pella, Iowa 50219	Employees blocked off the outfall to prevent further release of rinsate. The pools of rinsate were collected using pumps and returned to the plant. The storm drains in the plant will be plugged or removed from service.

## Environmental Protection Commission Minutes

September 1991

NUMBERS IN PARENTHESES REPRESENT REPORTS FOR THE SAME PERIOD IN FISCAL YEAR 1990

<u>Substance Type</u>						<u>Mode</u>				
Month	Total # of Incidents	Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct.	112(89)	69(62)	7(10)	36(17)	70(52)	0(3)	25(10)	1(1)	1(1)	15(22)
Nov.	69(57)	36(36)	11(10)	22(17)	35(52)	0(3)	15(10)	4(2)	1(0)	14(5)
Dec.	85(65)	61(43)	14(4)	10(18)	37(32)	1(3)	23(9)	1(3)	1(2)	22(16)
Jan.	56(104)	31(76)	7(6)	18(22)	35(72)	1(2)	9(16)	1(4)	1(3)	9(7)
Feb.	77(69)	43(49)	7(7)	27(13)	47(45)	1(2)	14(13)	2(1)	2(1)	11(7)
March	82(104)	51(76)	10(6)	21(22)	43(72)	3(2)	17(16)	3(4)	0(3)	16(7)
April	85(132)	46(67)	22(46)	17(19)	36(92)	2(2)	25(12)	1(5)	0(2)	21(19)
May	162(150)	54(69)	67(60)	41(21)	79(113)	3(1)	47(17)	3(3)	1(5)	29(12)
June	116(121)	51(47)	46(27)	19(47)	52(79)	1(2)	42(27)	0(1)	0(3)	21(9)
July	125(114)	57(56)	22(21)	46(37)	60(72)	2(0)	26(31)	2(0)	1(0)	34(11)
August	77(107)	51(46)	9(18)	17(43)	34(77)	2(0)	17(20)	5(3)	0(0)	19(7)

Total Number Of Incidents Per Field Office This Period:

1	2	3	4	5	6
9	8	4	5	25	26

## NUMBER OF LUST CLEANUPS COMPLETED

During the period of August 1, 1991 through August 31, 1991, the following number of LUST cleanups were completed.

19 (432)

The number in parentheses represents the total number of LUST cleanups through August 31, 1991.

## Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field-Office Number      Program      Alleged Violation      Action      Date

The River Products Co., Iowa City (6)	Air Quality	Construction Without Permit	Order/Penalty	8/05/91
Molo Ready Mix Co., Dubuque (6)	Air Quality	Construction Without Permit	Order/Penalty	8/05/91
LaMont Limited; and LaMont Intl., Inc., Burlington (6)	Air Quality	Construction Without Permit	Order/Penalty	8/05/91
Merle Adams, Hardin County (2)	Solid Waste	Illegal Disposal	Amended Order	8/05/91
Dubuque, City of (1)	Wastewater	Pretreatment	Order/Penalty	8/07/91
Pieper, Inc., Lee County (6)	Wastewater	Prohibited Discharge	Order/Penalty	8/07/91

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Pleasant Valley Golf Course, Iowa City (6)	Drinking Water	Monitoring/Reporting-Nitrate; Public Notice	Order/Penalty	8/07/91
Garwin, City of (2)	Drinking Water	Monitoring/Reporting-Nitrate	Order/Penalty	8/07/91
Jefferson, City of (4)	Wastewater	Pretreatment	Order	8/12/91
Chicago Rivet & Machine Company, Jefferson (4)	Wastewater	Pretreatment	Order	8/12/91
Al's Corner Oil Co.; Rollin Tiefenthaler, Carroll (4)	Hazardous Condition	Remedial Action	Order	8/12/91
Twin County Dairy, Inc., Iowa City (6)	Wastewater	Discharge Limits	Amended Order	8/16/91
Monona County SLF; Ronald Hanson, Monona County (4)	Solid Waste	Compliance Schedule; Leachate Control	Order/Penalty	8/16/91
Richard Duncan, Columbus Junction (6)	Air Quality Solid Waste	Discharge Limits; Illegal Disposal	Amended Order	8/16/91
College Springs, City of (4)	Drinking Water	MCL-Bacteria; Monitoring/Reporting-Bacteria	Order/Penalty	8/16/91
Chalstrom Beach of Okoboji, Spirit Lake (3)	Drinking Water	MCL-Bacteria; Public Notice	Order	8/16/91
Westside Park for Mobile Homes, Burlington (6)	Wastewater	Monitoring/Reporting; Discharge Limits	Order/Penalty	8/16/91
Hedrick, City of (6)	Wastewater	Monitoring/Reporting; Compliance Schedule	Order	8/16/91
Lost Canyon Mobile Home Park, Dubuque (1)	Wastewater	Discharge Limits	Amended Order	8/16/91
Fremont Golf Course, Sidney (4)	Drinking Water	Construction Without Permit; Monitoring/Reporting; MCL-Bacteria	Order/Penalty	8/16/91
U.S. Dept. of Agriculture, Midwest Area National Animal Disease Center, Ames (5)	Air Quality	Monitoring/Reporting; Construction Without Permit	Order/Penalty	8/16/91
Ames Golf & Country Club, Ames (5)	Wastewater	Operational Violations Effluent Limits	Referred to AG	8/19/91
Folletts Tap, Camanche (6)	Drinking Water	Operation Without Permit; MCL-Bacteria; Monitoring/Reporting-Bacteria & Nitrate	Referred to AG	8/19/91
Honey Creek Camping Resort, Crescent (4)	Drinking Water	Monitoring/Reporting-Bacteria	Referred to AG	8/19/91
Schildberg Construction Co., Inc., Atlantic (4)	Flood Plain	Unauthorized Levee	Referred to AG	8/19/91
The Barn, Sherrill (1)	Drinking Water	Monitoring/Reporting-Nitrate	Referred to AG	8/19/91
G.B.E. Limited, Mediapolis (6)	Air Quality Solid Waste	Construction Without Permit; Illegal Disposal	Order	8/22/91
Modernfold, Inc., a/k/a New Castle Acquisition Corp., Dyersville (1)	Air Quality	Construction Without Permit	Order/Penalty	8/22/91
Waverly Gravel & Ready-Mix Co. a/k/a Shell Rock Sand & Gravel Co., Butler County (2)	Air Quality	Construction Without Permit	Order/Penalty	8/22/91
Battle Creek, City of (3)	Drinking Water	MCL - Nitrate	Order	8/22/91
Sleepy Hollow Campground, Oxford (6)	Wastewater	Monitoring/Reporting; Operational Violations	Order/Penalty	8/23/91
Carroll, City of (4)	Wastewater	HIP	Amended Order	8/26/91
Archer-Daniels-Midland Co., Clinton County (6)	Solid Waste	Operation Without Permit	Order	8/26/91
Saunders Oil Company, Sioux City (3)	Underground Tanks	Illegal Deposits	Order/Penalty	8/28/91
Anamosa, City of (1)	Wastewater	Compliance Schedule; Discharge Limits	Order	8/28/91

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## Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Wagon Wheel (Monticello)	WS	330	5-13-91
Merle Adams (Hardin Co.)	SW	1,000	7-01-91
Fred R. Thomas/Fred R. Thomas, Jr. d/b/a Clair-View Acres Store (Delhi)	WS	1,000	8-04-91
Hornick Water Supply	WS	200	8-04-91
Fibre Body Industries, Inc. (Swea City)	AQ	1,000	8-04-91
Wayland Water Supply	WS	200	8-07-91
Long Branch Tavern (Monmouth)	WS	200	8-12-91
Kalmes Store (St. Donatus)	WS	100	8-13-91
M & W Mobile Home Park (Muscatine)	WW	700	8-21-91
Andrews Prestressed Concrete, Inc. (Cerro Gordo Co.)	SW	1,000	8-22-91
Northwest Lagoon Pumping Contractors (Marcus)	WW	1,000	8-24-91
Bee Line Company (Bettendorf)	WS	100	8-27-91
Nichii Company of America, Inc. (Jefferson)	AQ	1,000	9-03-91
Union, City of	WS	500	9-11-91
Empire Const. Co. d/b/a Dickinson Co. SLF	SW	1,000	9-18-91
IBP, inc. (Perry)	WW	1,000	9-25-91
Molo Ready Mix Co. (Dubuque)	AQ	1,000	10-10-91
The River Products Co. (Iowa City)	AQ	1,000	10-05-91
Pieper, Inc. (Lee County)	WW	500	10-16-91
Dubuque, City of	WW	1,000	10-12-91
Garwin, City of	WS	100	10-13-91
Chicago Rivet & Machine Co. (Jefferson)	WW	1,000	10-13-91
USDA/Midwest Area Natl. Animal Disease Center (Ames)	AQ	1,000	10-20-91
Westside Park for Mobile Homes (Lee Co.)	WW	500	10-20-91
College Springs, City of	WS	600	10-20-91
Fremont Golf Course (Sidney)	WS	660	10-20-91
Sleepy Hollow Campground (Oxford)	WW	1,000	10-24-91
Waverly Gravel & Ready-Mix Co. (Butler Co.)	AQ	1,000	-----
Modernfold, Inc. (Dyersville)	AQ	1,000	-----
Monona Co. SLF/Ronald L. Hanson (Monona Co.)	SW	1,000	-----
Saunders Oil Company (Sioux City)	UT	1,000	-----

\*On Payment Schedule

The following cases have been referred to the Attorney General:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
OK Lounge (Marion)	WS	448	11-01-87
Richard Davis (Albia)	SW	1,000	2-28-88
Eagle Wrecking Co. (Pottawattamie Co.)	SW	300	5-07-89
*Twelve Mile House (Bernard)	WS	119	5-20-89
*Lawrence Payne (Ottumwa)	SW	425	6-19-89
William L. Bown (Marshalltown)	SW	1,000	10-01-89
Darlo Schaap (Sioux Center)	SW	600	1-14-90
Wellendorf Trust (Algona)	AQ/SW	460	2-12-90
Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
East Side Acres (Menville)	WS	200	12-26-89
East Side Acres (Menville)	WS	600	4-01-90
Craig Natvig (Cerro Gordo Co.)	SW	750	6-18-90
Amoco Oil Company (Des Moines)	UT	1,000	8-15-90
Gerald G. Pregler (Dubuque Co.)	SW	1,000	9-02-90
Donald R. Null (Clinton Co.)	AQ/SW	1,000	9-06-90
Pony Creek Homeowners Assoc. #1 (Pacific Jct.)	WS	315	2-24-91
M & D's Chalet (Elgin)	WS	490	3-02-91
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Fred Varner (Worth County)	SW	1,000	4-11-91
Gaul's Water Commission (Burlington)	WS	200	5-13-91
Buffalo Bill Estates, Inc. MHP (Camanche)	WS	245	5-14-91
Honey Creek Camping Resort (Crescent)	WS	245	6-13-91
*Folletts Tavern (Camanche)	WS	375	6-25-91

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
AMOCO Oil Co. (Des Moines)	UT	1,000
Iowa City Regency MHP	WW	1,000
Great Rivers Coop (Atavia)	HC	1,000
1st Iowa State Bank (Albia)	SW	1,000
Cloyd Foland (Decatur)	FP	800
King's Terrace Mobile Home Court (Ames)	WW	1,000
Premium Standard Farms, Inc. (Boone Co.)	WW/AQ	700
Amoco Oil Co. (West Des Moines)	UT	1,000
Stone City Iron & Metal Co. (Anamosa)	AQ	1,000
Manson Water Supply	WS	500
Joe Villinger (West Point)	SW	500
Sioux City, City of	WW	1,000
Donald Ray Maasdam (Pocahontas Co.)	SW	1,000
Vern Starling (Boone Co.)	SW	1,000
Des Moines, City of	HC	1,000
Carl A. Burkhart d/b/a American Wrecking Co.	AQ/SW	1,000
Van Dusen Airport Services (Des Moines)	HC	1,000
Maple Crest Motel and MHP (Mason City)	WS	350
Plymouth County Solid Waste Agency	SW	1,000
Lloyd Dunton (Iowa County)	SW	1,000
Chicago & North Western Transportation, et.al.	SW	1,000
Vincent Martinez d/b/a Martinez Sewer (Davenport)	HC	1,000
Joe Eggers, Jr., et. al. (St. Ansgar)	SW	1,000
McDowell Dam #1 (Lee County)	FP	500
McDowell Dam #2 (Lee County)	FP	500
Camp Riverside (Guthrie County)	FP	500
Joe W. Ringsdorf (Kossuth County)	AQ	1,000
John W. Yotter (Louisa County)	SW	1,000
Molkenthin Swine Operation (Keokuk County)	WW	800
Oskaloosa Food Products Corp. (Oskaloosa)	WW	1,000
Oskaloosa, City of	WW	1,000
Clarke County Sanitary Landfill (Osceola)	SW	1,000
Kenneth Bode (Mills Co.)	SW	1,000
Mason City Iron and Metal Co. (Mason City)	AQ	1,000
Ringgold County Hospital (Mt. Ayr)	AQ	1,000
American Recycling, Inc. (Council Bluffs)	AQ	1,000
Waterloo, City of	WW	1,000
Wally's Paint Shop (Strawberry Point)	AQ	500
LaMont Ltd./LaMont Intl., Inc. (Burlington)	AQ	1,000

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Kit Kat Klub d/b/a Eagle Center Tap (Waterloo)	WS	100
Manildra Energy Corporation (Hamburg)	AQ	1,000
Clow Valve Company (Oskaloosa)	AQ	700
Williams Water Supply	WS	50
Richard Duncan (Louisa County)	SW/AQ	250
The Barn (Sherrill)	WS	100
Pleasant Valley Golf Course (Iowa City)	WS	50
Clinton County Care Facility (Clinton)	WS	100
Oakwood Park Water Assoc. (Clear Lake)	WS	200
Twin View Heights (Solon)	WS	50

TOTAL \$2,600

\*On Payment Schedule

## Environmental Protection Commission Minutes

September 1991

DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION COMMISSION  
ATTORNEY GENERAL REFERRALS  
September 1, 1991

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Aidex Corporation Council Bluffs (4)		Hazardous Waste	Release of Hazardous Substances	Referred to Attorney General	Referred EPA suit filed State intervention Motion to dismiss granted/denied Filed interlocutory appeal Decision in favor of govt. Case Management Hearing Trial Date	12/16/82 2/26/87 3/05/87 2/26/88 3/11/88 4/04/89 11/20/90 4/ /92
American Pelletizing Corp. Knoxville (5)		Air Quality	Emission Standards	Order	Referred	2/18/91
Ames Golf & Country Club Ames (5)	New	Wastewater	Operational Violations Effluent Limits	Referred to Attorney General	Referred	
Amoco Oil Company Des Moines/Ames (5)		Underground Tank	Remedial Action	Referred to Attorney General	Referred	10/15/90
Amoco Oil Company Des Moines/Ft. Madison (5&6)		Underground Tank	Remedial Action	Referred to Attorney General	Referred	8/21/90
Anderson, Nicklos J. d/b/a Far-Mor Feeder Pigs Henry County (6)		Wastewater	Prohibited Discharge	Order	Referred	2/18/91
Archer Daniels Midland Co. Clinton County (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	3/18/91
Archer Daniels Midland Co. Clinton County (6)		Air Quality	Emission Standards	Referred to Attorney General	Referred	5/20/91
ASPRO, Inc. Waterloo (1)		Air Quality	Emission Standards	Referred to Attorney General	Referred	3/18/91
Baker, Mike d/b/a M & D's Chalet Elgin (1)		Solid Waste	Illegal Disposal	Order/Penalty	Referred	4/15/91
Barn, The Sherrill (1)	New	Drinking Water	Monitoring/Reporting- Nitrate	Order/Penalty	Referred	8/19/91
William L. Bown Marshalltown (5)		Solid Waste	Open Dumping	Order/Penalty	Referred Petition Filed Default Judgment	11/20/89 3/03/90 7/27/90
Bridgestone/Firestone, Inc. Des Moines (5)		Wastewater Hazardous Condition	Prohibited Discharge Failure to Notify	Referred to Attorney General	Referred	5/21/90
Bruening Rock Products, Inc. Elma (1)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	2/18/91
Buffalo Bill Estates, Inc. Camanche (6)		Drinking Water	Monitoring/Reporting- Nitrate	Order/Penalty	Referred	6/17/91
Bryant, Robert D.V.M. d/b/a Cherokee Hog Farms Aurelia (3)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	7/15/91
Cain, Edward and Margaret Clinton County (6)	Updated	Flood Plain	Channel Change	Referred to Attorney General	Referred Petition Filed	3/18/91 8/19/91
Carney, Don and Gertrude Ft. Dodge (2)		Solid Waste	Illegal Disposal	Order/Penalty	Referred	4/15/91
Carnicle, Roger d/b/a The New New Shack Tavern Cedar Rapids (1)		Drinking Water	MCL - Bacteria	Referred to Attorney General	Referred Petition Filed Trial Date	9/18/90 12/31/90 12/18/91
Chalfant, Milo, et.al. Webster City (2)		Solid Waste	Illegal Disposal	Order/Penalty	Referred Suit Filed Trial Date	9/20/89 8/08/90 9/05/91
Chicago & Northwestern Transportation Co. Webster County (2)		Air Quality	Open Burning	Referred to Attorney General	Referred	3/18/91

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## Environmental Protection Commission Minutes

DEPARTMENT OF NATURAL RESOURCES  
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Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Chicago & Northwestern Transportation Co.; Blue Chip Enterprises Iowa Falls (2)	New	Hazardous Condition	Remedial Action	Order	Petition for Judicial Review	8/19/91
Clinton Pallet Co. Clinton (6)		Solid Waste	Illegal Disposal	Referred to Attorney General	Referred Suit Filed Default Judgment	6/21/89 11/09/89 4/ /90
Cooper, Kenneth/Hunter Oil Minburn (5)		Storage Tank	Spill Cleanup	Order	Cooper Referred Hunter Referred Site Assessment DNR Review Remediation Plan	8/17/88 2/01/90 4/20/90 8/22/90
Cota Industries, Inc. Des Moines (5)	Updated	Hazardous Condition	Remedial Action	Order	Referred	4/15/91
				Order	Petition for Judicial Review Motion to Dismiss Order Granting Motion to Dismiss Notice of Appeal	4/18/91 5/08/91 7/23/91 8/13/91
Country Estates MH Court Council Bluffs (4)		Drinking Water	Monitoring/Reporting-Bacteria	Order/Penalty	Referred	6/17/91
Country Lane Foods, Division of Yoder, Inc., Kalona (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	11/20/90
					Referred Suit Filed Default Judgment Filed Motion to Deny Default Motion Overruled	6/22/88 8/11/88 4/21/89 6/14/89 10/04/89
Davis, Richard & Sonja (5)		Solid Waste	Open Unpermitted Dumping	Referred to Attorney General		
Jimmy Dean Meat Co., Inc. (5)		Wastewater	Pretreatment	Referred to Attorney General	Referred Petition Filed	4/16/90 5/13/91
Denham, Larry Ottumwa (6)		Solid Waste	Illegal Disposal	Referred to Attorney General	Referred Petition Filed Default Judgment	8/21/90 11/30/90 6/10/91
Des Moines, City of (5)		Wastewater	Operation Violations	Referred to Attorney General	Referred	9/18/90
Dexter Co., The Fairfield (6)		Wastewater	Prohibited Discharge Effluent Limit Discharge	Referred to Attorney General	Referred Petition Filed Trial Date	3/20/90 7/31/90 11/18/91
Drewelow, Harvey d/b/a Hanson Tires New Hampton (1)		Air Quality Solid Waste	Open Burning Illegal Disposal	Referred to Attorney General	Referred Petition Filed	6/19/90 3/13/91
Drips, Joseph and Diana vs. DNR		Wastewater	Private Sewage Disposal	Defending	Suit Filed Motion to Dismiss Trial Date	8/06/90 6/14/91 2/17/92
Eagle Wrecking Co. Pottawattamie Co. (4)		Solid Waste	Open Dumping	Order/Penalty	Referred Bankruptcy Claim Filed	6/21/89 7/24/89
Ervin, Don Webster County (2)		Solid Waste	Operation Without Permit	Order/Penalty	Referred Motion for Summary Judgment Hearing Held Judgment for \$1,000 Execution & Order to Levy Application to Condemn Funds Partial Payment Received (\$331)	4/16/90 6/02/90 7/02/90 7/13/90 9/28/90 11/27/90 11/30/90
Fairfield, City of (6)	Updated	Wastewater	Monitoring/Reporting Discharge Limitations Operation Violation	Order	Referred Petition Filed Trial Date	2/20/90 7/31/90 11/18/91
First Iowa State Bank Albia (2)		Solid Waste	Open Dumping	Order/Penalty	Petition for judicial review.	4/12/91
Folletts Tap Camanche (6)	New	Drinking Water	Operation Without Permit; MCL - Bacteria; Monitoring/Reporting - Bacteria & Nitrate	Order/Penalty	Referred	8/19/91
Fred Carlson Co., Inc. Decorah (2)	Updated	Air Quality	Emission Standards	Referred to Attorney General	Referred Petition Filed	2/18/91 8/06/91

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Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Gaul's Water Commission Burlington (6)		Drinking Water	Monitoring/Reporting-Inorganics	Order/Penalty	Referred	6/17/91
Giametta, Dominic d/b/a Fred's 66, Davenport (6)		Underground Tank	Remedial Action	Order/Penalty	Referred Petition Filed Trial Date	12/11/89 7/02/90 11/05/91
Great Dane Ferlizer, Inc. Audubon (4)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	9/18/90
Hancock County and William Waddingham (2)		Underground Tank	Remedial Action	Referred to Attorney General	Referred	11/20/90
Honey Creek Camping Resort Crescent (4)	New	Drinking Water	Monitoring/Reporting-Bacteria	Order/Penalty	Referred	8/19/91
Hubinger Company Keokuk (6)		Air Quality	Operation Permit Violations	Referred to Attorney General	Referred	4/15/91
Humboldt Co. Landfill Commission (2)		Solid Waste	Cover Violations	Order/Penalty	Referred Petition Filed Discovery Proceeding Trial Date	11/20/89 8/30/90 11/15/90 9/19/91
Iowa Dress Club, Inc. Oskaloosa (5)		Wastewater Solid Waste	Prohibited Discharge Illegal Disposal	Referred to Attorney General	Referred Trial Info. Filed (Mahaska Co.) Guilty Plea (\$3,000)	7/16/90 5/14/91 7/08/91
Kleindolph, Richard Muscatine (6)		Solid Waste	Open Dumping	Order/Penalty	Referred Petition Filed Default Judgment Partial Penalty Paid (\$300)	10/24/89 4/06/90 8/13/90 9/13/90
Kollbaum, Garry East Side Acres Merville (3)	Updated	Drinking Water	MCL-Nitrate	Order/Penalty	Referred Petition Filed Consent Decree	5/21/90 7/02/90 8/21/91
Lakeshore Drive, Inc. et.al. Osceola (5)		Flood Plain	Reconstruction	Order	Referred Petition Filed Judgment vs. Lakeshore	11/20/89 2/07/90 4/09/90
Larson, Daryl, D.V.M. Audubon (4)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Trial Information	11/20/89 3/19/91
Lenox, City of and Papetti's of Iowa, Inc.		Wastewater	Effluent Standards Treatment Agreement	Order	Referred	2/18/91
Mathern, Larry (Larry's DX) Ralph Beck; Walker Oil Co. (5)	Updated	Underground Tank	Remedial Action	Referred to Attorney General	Referred Petition Filed Beck Motion for Summary Judgment Denied Dismissed Without Prejudice (Site Assessment per S.F. 362)	2/20/90 7/02/90 5/15/91 8/14/91
McGinnis, Mike; Alfred Patten; and Dennis Lewis Pottawattamie Co. (4)		Solid Waste	Open Dumping	Referred to Attorney General	Referred Suit Filed	10/24/89 11/15/89
McGregor, John W. and Doris v. DNR (4)		Wastewater	DNR Defendant	401 Certification	Petition for judicial review.	5/30/91
Bob McKiniss Excavating & Grading v. IDNR		Hazardous	DNR Defendant	Defense	Suit Filed DNR Motion to Dismiss Trial Date	3/12/91 5/01/91 10/01/91
Miller Products Co. (5)		Wastewater	Pretreatment	Order/Penalty	Referred Petition Filed Trial Date	4/16/90 11/29/90 10/08/91
Monfort, Inc. (5)		Wastewater	Prohibited Discharge	Attorney General	Referred Trial Info. Filed (Polk Co.)	12/11/89 7/19/91
Murphy Trust Keokuk (6)	New	Site Registry	- - - - -	Notice of Intent	Petition for judicial review.	8/26/91
Natvig, Craig Mason City (2)		Solid Waste	Operation Without Permit	Order/Penalty	Referred Petition Filed Trial Date	8/21/90 11/29/90 10/17/91
Oehler, Jay d/b/a Oehler Bros. Oil Moravia (5)		Underground Tank	Remedial Action	Referred to Attorney General	Referred	5/20/91

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Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Orchard, City of (2)		Drinking Water	Monitoring/Reporting MCL-Bacteria Operation Violations	Referred to Attorney General	Referred	6/17/91
Osceola, City of (5)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Amended Petition Filed	4/16/90 11/30/90 5/13/91
Pete's Sunoco/ Popejoy Septic West Des Moines (5)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	6/19/90
Pony Creek Homeowners Assoc. #1 Pacific Junction (4)		Drinking Water	Monitoring/Reporting-Bacteria	Order/Penalty	Referred	3/18/91
Pregler, Gerald Dubuque County (1)		Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed	10/15/90 5/23/91
Pruess v. IDNR		Hazardous Condition	DNR Defendant	Abatement Order	Suit Filed Hearing DNR Motion to Dismiss Hearing Amended Petition DNR Motion to Dismiss Hearing Set Dismissed Appealed to Supreme Court	4/24/90 4/30/90 5/14/90 5/15/90 5/25/90 6/18/90 8/10/90 8/21/90 9/19/90
R. V. Hopkins, Inc. Davenport (6)		Air Quality	Emission Standards	Referred to Attorney General	Referred	6/17/91
Root, William/LAWNKEEPERS Mitchell County (2)	Updated	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Trial Information	7/16/90 8/20/91
Schaap, Darlo Sioux Center (3)		Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed	2/20/90 6/21/90
Schildberg Construction Co. Atlantic (4)	New	Flood Plain	Unauthorized Levee	Referred to Attorney General	Referred	8/19/91
Schultz, Albert and Iowa Iron Works Ely (1)		Solid Waste	Open Dumping	Referred to Attorney General	Referred Suit Filed	9/20/89 8/08/90
Sevig, Gordon, et.al. Walford (1)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Criminal Charges Filed	9/20/89 7/15/90
Shelley, Robert and Sally Guthrie Center (4)		Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed	4/15/91 7/18/91
Simmons, Art d/b/a Art's Garage Bussey (5)		Underground Tank	Remedial Action	Referred to Attorney General	Referred	5/20/91
Siouxland Quality Meat Co., Inc. Sioux City (3)		Wastewater	Discharge Limitations	Referred to Attorney General	Referred Petition Filed Trial Date	2/20/90 7/02/90 9/17/91
Soo Line Railroad Co. Mason City (2)		Wastewater Haz. Condition	Prohibited Discharge Remedial Action	Referred to Attorney General	Referred	7/15/91
Sun Wise Systems Corp. Sac City (3)		Wastewater	Pretreatment	Referred to Attorney General	Referred	10/15/90
Swea City Oil Co./Irene Fagerlund, Swea City (2)		Underground Tank	Remedial Action	Referred to Attorney General	Referred	8/21/90
Touchdown Co., et. al., Webster City (2)		Underground Tank	Prohibited Discharge Failure to Report Hazardous Condition	Referred to Attorney General	Referred Petition Filed	6/21/89 2/14/91
Varnier, Fred North County (2)		Solid Waste	Waste Oil Reporting	Order/Penalty	Referred	5/20/91

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DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oelwein Soil Service	Administrative Order	WW	Landa	Hearing continued.
12-03-86	Waukee, City of	Administrative Order	WS	Hansen	Construction completed. Settlement proposed.
5-12-87	Iowa City Regency MHP	Administrative Order	WW	Hansen	Hearing held 11-03-87; amended order issued.
8-10-87	Great Rivers Co-op	Administrative Order	HC	Landa	Additional round of sampling performed.
1-15-88	First Iowa State Bank	Administrative Order	SW	Kennedy	To District Court 4/12/91 for judicial review.
2-04-88	Beaverdale Heights, Woodsman; Westwood Hills	Administrative Order	WS	Landa	Settlement proposed. Counter offer made.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Landa	Additional work requested and initiated.
3-01-88	Cloyd Foland	Administrative Order	FP	Clark	Supreme Court confirms;remands other issues.
7-25-88	Nishna Sanitary Services, Inc.	Permit Conditions	SW	Landa	Settlement proposed.
8-03-88	Hardin County	Permit Conditions	SW	Landa	Settlement proposed.
10-20-88	Worth Co. Co-Op Oil Northwood Cooperative Elevator Sunray Refining and Marketing Co.	Administrative Order	HC	Landa	Compliance initiated. Assessment report submitted.
1-25-89	Amoco Oil Co. - Des Moines	Administrative Order	UT	Landa	Settlement proposed. Clean-up progressing.
2-10-89	Northwestern States Portland Cement Company	Site Registry	HW	Landa	Settlement proposed.
2-10-89	Baier/Mansheim/Moyer	Site Registry	HW	Landa	Property transferred.
2-16-89	Premium Standard Farms	Administrative Order	WW/AQ	Murphy	Hearing continued.
5-01-89	Amoco Oil Co. - West Des Moines	Administrative Order	UT	Landa	Compliance initiated.
6-08-89	Shaver Road Investments	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Landa	Hearing continued. Discovery initiated.
6-12-89	Amana	Site Registry	HC	Landa	Negotiating before filing.
6-22-89	Chicago & Northwestern Transportation Co. Hawkeye Land Co. Blue Chip Enterprises	Administrative Order	HC	Landa	Petition for judicial review of agency action.



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9-01-89	Stone City Iron & Metal	Administrative Order Permit Denial	AQ	Kennedy	Testing done August 28, 1991.
10-24-89	Farmers Cooperative Elevator Association of Sheldon	Site Registry	HC	Landa	Negotiation proceeding.
10-24-89	Consumers Cooperative Assoc.	Site Registry	HC	Landa	Negotiation proceeding.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Landa	Hearing continued pending negotiations.
11-17-89	Aten Services, Inc.	Administrative Order	SW/UT	Landa	Compliance completed.
12-11-89	Leo Schachtner	Permit Issuance	FP	Clark	Hearing continued.
1-04-90	Joe Villinger	Administrative Order	SW	Kennedy	Settlement pending.
1-08-90	Northwestern States Portland Cement Co.	Permit Amendment	WW	Landa	Sent to DIA.
3-22-90	Vern Starling	Administrative Order	SW	Kennedy	Appealed to EPC; order affirmed.
4-23-90	Sioux City, City of	Administrative Order	WW	Hansen	Informal meeting held on 5/18/90.
5-08-90	Texaco Inc./Chemplex Company Site	Site Registry	HW	Landa	Hearing continued.
5-09-90	Raccoon Valley State Bank	Administrative Order	HC	Landa	Hearing continued. Depositions taken.
5-09-90	Square D Company	Site Registry	HW	Landa	Hearing continued. Compliance initiated.
5-11-90	Carl A. Burkhardt	Administrative Order	AQ/SW	Kennedy	Appealed to EPC 5/24/91; order affirmed.
5-14-90	Van Dusen Airport Services	Administrative Order	HC	Landa	Compliance initiated.
5-14-90	Alter Trading Corp. (Council Bluffs)	Administrative Order	SW	Murphy	Negotiating before filing.
5-15-90	Des Moines, City of	Administrative Order	HC	Landa	Hearing continued. Settlement proposed.
6-14-90	Willow Tree Investments, Inc.	Administrative Order	UT	Wornson	Settlement pending.
6-18-90	Ames, City of	NPDES Permit Cond.	WW	Hansen	Decision final 8/14/91.
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	Informal meeting held 6-21-91.
6-26-90	Maple Crest Motel and Mobile Home Park	Administrative Order	WS	Hansen	Negotiating settlement.
7-02-90	Keokuk Savings Bank and Trust Keokuk Coal Gas Site	Site Registry	HW	Landa	Hearing continued to 6/11/91.

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DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
7-11-90	Chicago & Northwestern Co.; Steve L. Carroll; Susan E. Carroll; and Tracy A. Carroll	Administrative Order	NR	Kennedy	New orders issued 12/28/90 rescinding prior orders.
11-20-90		Administrative Order	SW	Kennedy	Hearing continued.
7-23-90	IBP, inc. Perry	Administrative Order NPDES Permit	WW	Hansen	Settlement letter to IBP 7/26/91.
7-26-90	Plymouth County SW Agency	Administrative Order	SW	Kennedy	Settlement pending.
7-30-90	Key City Coal Gas Site; Murphy Trust & Howard Pixler	Site Registry	HW	Landa	Decision appealed; judicial review requested.
8-01-90	J.I. Case Company	Site Registry	HW	Landa	Settlement proposed.
8-06-90	Lake Manawa Nissan, Inc.	Administrative Order	UT	Landa	Compliance initiated.
9-06-90	Wilbur Numelin d/b/a Lakeview Enterprises; Carl Hankenson	Administrative Order	UT	Landa	Hearing held; briefs filed.
9-10-90	IBP, inc. Columbus Junction	Administrative Order NPDES Permit	WW	Hansen	Hearing held 8/6/91. Briefs to be submitted.
9-12-90	Michael & Joyce Haws; George H. Gronau	Administrative Order	UT	Landa	Stipulations prepared.
9-20-90	Duane Schwarting	Variance Denial	SW	Kennedy	Hearing continued.
10-02-90	James Rhoads; Manatt's, Inc.	Administrative Order	HC	Landa	Sent to DIA.
10-15-90	Westside General Store Corp.	Administrative Order	UT	Landa	Negotiating before filing.
10-18-90	Harlan Pruess	Claim	HC	Landa	Hearing scheduled for 8/5/91.
10-23-90	Chariton Municipal Water Department	Water Use Permit	WS	Clark	Settlement close.
10-29-90	Arcadian Corporation	NPDES Permit Conditions	WW	Hansen	Pending Corp decision on permit issuance.
11-06-90	Vincent Martinez d/b/a Martinez Sewer Service	Administrative Order	HC	Landa	Settlement proposed.
11-13-90	Lloyd Dunton	Administrative Order	SW	Kennedy	Hearing held 8/20/91.
11-15-90	Springwood Enterprises, Inc.	Water Use Permit	WR	Clark	Hearing continued.
11-29-90	Natural Gas Pipeline of America	NPDES Permit Denial	WW	Hansen	Hearing set for 9/20/91.
12-04-90	United States Gypsum Company	Administrative Order	SW	Kennedy	Negotiating before filing.

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12-19-90	Aratex Services, Inc.	Site Registry	HC	Landa	Negotiating.
12-21-90	Des Moines, City of	Administrative Order	UT	Landa	Compliance initiated.
12-27-90	McAtee Tire Service, Inc.	Administrative Order	SW	Kennedy	Hearing continued.
1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Administrative Order	SW	Kennedy	Negotiating before filing.
1-09-91	Iowa Southern Utilities	Administrative Order	HC	Landa	Hearing set for 8/30/91.
1-11-91	Fansteel/Wellman Dynamics	Site Registry	HC	Landa	Hearing set for 7/17/91.
1-22-91	Richard Duncan	Administrative Order	SW/AQ	Kennedy	Penalty paid. Settled.
1-28-91	McDowell Dam #1 & #2	Administrative Order	FP	Clark	Negotiating before filing.
2-22-91	Leon & Rebecca Pierce Camp Riverside	Administrative Order	FP	Clark	Hearing continued.
3-08-91	ADM - Cedar Rapids	Conditional Permit	AQ	Landa	Hearings begun.
3-11-91	John W. Yotter	Administrative Order	SW	Kennedy	Hearing set for 9/26/91.
3-14-91	Joe Ringsdorf	Administrative Order	AQ	Kennedy	Appealed to EPC 8/19/91. Affirmed.
3-21-91	Molkenthin Swine Operation	Administrative Order	WW	Murphy	Negotiating before filing.
3-22-91	Mitchell Bros. Boars and Gilts	Administrative Order	WW	Murphy	Negotiating before filing.
4-29-91	R.V. Hopkins, Inc.	Const. Permit Denial	AQ	Landa	Hearing set for 9/17/91.
5-09-91	Lost Canyon Mobile Home Park	Administrative Order	WW	Hansen	Amended order issued. Settled.
5-09-91	Oskaloosa Food Products Corp.	Administrative Order	WW	Hansen	Negotiating before filing.
5-09-91	Joe Wallbaum	401 Denial	WQ	Murphy	Hearing set for 9/24/91.
5-16-91	Oskaloosa, City of	Administrative Order	WW	Hansen	Negotiating before filing.
5-16-91	Clarke Co. Sanitary Landfill	Administrative Order	SW	Kennedy	Negotiating before filing.
5-20-91	Dad's Fuel Stop	Administrative Order	UT	Wornson	Negotiating before filing.
5-20-91	Great Rivers Coop--Lockridge	Site Registry	HC	Landa	Hearing set for 9/17/91.
5-20-91	Mason City Municipal Airport/ Dwyer Aircraft Sales, Inc.	Administrative Order	UT	Wornson	Compliance initiated with schedule.

DEPARTMENT OF NATURAL RESOURCES  
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DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
5-21-91	The Market of Clear Lake, Inc.	Administrative Order	UT	Wornson	Settlement pending.
5-31-91	Kenneth Bode	Administrative Order	SW	Kennedy	Negotiating before filing.
5-31-91	Cargill, Inc.	Certificate to Construct AQ		Landa	Written direct testimony filed.
6-27-91	Twin View Heights	Administrative Order	WS	Kennedy	Negotiating before filing.
7-05-91	Mason City Iron & Metal Co.	Administrative Order	AQ	Landa	Sent to DIA.
7-08-91	Ringgold County Hospital	Administrative Order	AQ	Landa	Negotiating before filing.
7-15-91	Des Moines Independent School District - North High School	Site Registry	HC	Landa	Hearing set for 10/3/91.
7-22-91	Rupp Tire	Administrative Order	UT	Wornson	Settlement proposed.
7-22-91	The Chantland Company	Permit Denial	AQ	Landa	Appeal withdrawn. Settled.
7-24-91	Alter Trading Corp. (Davenport)	Administrative Order	SW	Murphy	Negotiating before filing.
7-24-91	Clow Valve Co.	Const. Permit Denial	AQ	Landa	Negotiating before filing.
7-26-91	American Recycling, Inc.	Administrative Order	AQ	Landa	Negotiating before filing.
7-26-91	Go-Tane Service Station	Administrative Order	UT	Wornson	Compliance initiated.
7-27-91	Chicago North Western; Dennis Bell; Phillips Petroleum; Amoco Oil Co.	Administrative Order	HC	Landa	Sent to DIA.
8-05-91	Rathburn Area Solid Waste Comm.	Permit Conditions	SW	Kennedy	Negotiating before filing.
8-12-91	Lamont Ltd.; Lamont International, Inc.	Administrative Order	AQ	Landa	Sent to DIA.
8-14-91	Williamsburg, City of	Administrative Order	WW	Hansen	Negotiating before filing.
8-23-91	Wally's Paint Shop	Administrative Order	AQ	Landa	Negotiating before filing.
8-23-91	Waterloo, City of	Administrative Order	WW	Hansen	Sent to DIA.

In response to a Commissioner's inquiry last month about the number of sites on the State Abandoned or Uncontrolled Site Registry, a copy of the 1990 annual report was distributed.

Mr. Stokes also discussed UST rules which were before the Commission last month, noting that a Commissioner raised concern with language in 135.8(2), in regards to using the word "anytime" in the department's request for a corrective action plan. He explained that federal rules 280.66 uses the term "at any point" after review the EPA can require a corrective action plan. Mr. Stokes noted that staff cannot include a specific time unless they would be less restrictive than the federal government, which is not permitted if the state is going to retain delegation of the federal program.

Discussion followed regarding various items in the reports.

This was an informational item; no action was required.

PROPOSED RULE--CHAPTER 102, FINANCIAL INSURANCE MECHANISMS FOR CLOSURE AND POSTCLOSURE COSTS AT SANITARY DISPOSAL PROJECTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

In 1987 the legislature amended 455B and required operators of sanitary disposal projects to have financial assurance instruments for closure and postclosure costs. It is proposed that Chapter 102 be amended by adding new subrules 567--102.15 and 567--102.16.

Subrule 102.15 requires financial assurance for closure and postclosure costs. Proof of financial assurance must be submitted to the Department prior to issuance and renewal of a Sanitary Disposal Project Permit. Cost estimates for closure and postclosure shall be submitted in writing to the department. Yearly updates to cost estimates will be required during the operating life of the sanitary disposal project.

An annual financial statement must be submitted to the Department. This statement will include: current balances in the closure and postclosure accounts, total assets, total liabilities, and projected amounts to be deposited into the closure and postclosure accounts.

Financial assurance can be established through use of one financial assurance mechanism or multiple mechanisms. One financial assurance mechanism can be used for multiple facilities.

A financial assurance mechanism may be terminated if an alternate mechanism is substituted, or if the owner is released by the Department from closure and postclosure costs.

567--102.16 explains the types of financial assurance mechanisms allowed for closure and postclosure costs. The mechanisms are limited to: trust funds, surety bonds, letters of credit, and self-insurance.

The Commission will be asked to approve a Notice of Intended Action at their October meeting.

(A copy of the proposed rule is on file in the department's Records Center)

Mr. Stokes explained the proposed rules and related that draft rules were sent to representatives of the Iowa State Solid Waste Officials and staff has incorporated some of their comments into the rules. He noted that draft copies were also distributed to the Attorney General's Office, Iowa Finance Authority Division of the Department of Economic Development, Banking and Insurance Divisions of the Department of Commerce, State Treasurer's Office, and the State Auditor's Office. He noted that no one highlighted any problems with the proposed rules.

This was an informational item; no action was required.

#### PROPOSED CONTESTED CASE DECISION--LLOYD DUNTON

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

On October 11, 1990, the department issued Administrative Order 90-SW-19 to Lloyd Dunton. That action required Mr. Dunton to cease illegal solid waste disposal, clean up an existing disposal site, and pay a \$1,000.00 penalty. That action was appealed and the matter proceeded to administrative hearing on August 20, 1991. The Administrative Law Judge issued the attached Proposed Findings of Fact, Conclusions of Law, and Order on August 30, 1991. The decision affirms the Order, with the exception of reducing the penalty to \$300.00.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mr. Murphy briefed the Commission on the history of this case.

Discussion followed regarding the reduction of penalty amount in many of the contested cases and what kind of evidence is presented to support the department's conclusions.

The Commission took no action; this has the effect of upholding the Administrative Law Judge's decision in the absence of an appeal.

#### REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the Commissioners and are confidential pursuant to Iowa Code section 22.7(4).

New Virginia Sanitary District - water pollution  
M & W Mobile Home Park (Muscatine) - penalty/water pollution  
Fred R. Thomas (Delhi) - penalty/drinking water  
City of Hornick - penalty/drinking water

#### New Virginia Sanitary District

Mr. Murphy briefed the Commission on the history of this case.

Brief discussion followed.

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*Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office. Seconded by Margaret Prah. Motion carried unanimously.*

#### M & W Mobile Home Park

Mr. Murphy briefed the Commission on the history of this case.

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*Motion was made by Margaret Prah for referral to the Attorney General's Office. Seconded by Nancylee Siebenmann. Motion carried unanimously.*

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#### City of Hornick

Mr. Murphy briefed the Commission on the history of this case.

*Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Nancylee Siebenmann. Motion carried unanimously.*

1992 LEGISLATION PACKAGE

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Below is a summary of ideas/proposals for legislative action during 1992. They are not listed in order of priority.

**CREATE AN ENVIRONMENTAL TRUST FUND**

Amend 455B.105(12) to create an environmental trust fund which is subdivided into accounts for air quality, solid waste, water supply, and water quality. These accounts will be used to fund the administrative costs of the department in operating the programs of appropriate sections of Chapter 455B. The trust fund would operate in a similar manner to the Fish and Wildlife Trust Fund; funds would be appropriated from the trust, and residual funds unexpended at the end of the year would not revert to the general fund, but remain in the trust for their intended use.

Moneys for the trust would be obtained by requiring that rules be adopted which establish a schedule of fees for permits and conditional permits issued by the department, and a schedule of fees to be periodically assessed for the administration of the permits. This will require a rewrite of the entire section, deleting 455B.105(12)(a)1-3 and 455B.105(12)b.

The department has, since approximately 1983, had the authority to charge fees for permits issued under provisions of Chapter 455B. We have exercised this authority only in the areas of water supply, and water withdrawals; however, statute establishes a maximum permit fee in this latter area. Law currently limits the amount of fees that can be charged by linking the charge determination to specific considerations. Also, by law, all fees collected are credited to the General Fund of the state. The department is in dire need of a somewhat stable and predictable source of base funding. Establishing this fund, mandating that fees be charged, and eliminating the limitations on the base for charging fees would help provide such a source. "User charges" are becoming more accepted as a source for paying for certain governmental services, and could help eliminate pressures on general appropriations, although not eliminate entirely the need for continued General Fund appropriations to the department, to fund environmental protection programs. Last session the legislature established a fee structure for air quality permits as required by the recent amendments to the Federal Clean Air Act. Congress is considering amendments to the Federal Clean Water Act which will duplicate these provisions. It can be expected that amendments to other federally mandated



programs, in the future, will include similar provisions. Many states already charge substantial fees for permit issuance. Thus, adoption of this type of provision would not be expected to put Iowa in a disadvantageous position for attracting future development prospects through charging such fees.

**INCREASE THE MAXIMUM PENALTY THAT CAN BE ASSESSED BY ADMINISTRATIVE ORDER FROM \$1,000.00 TO \$10,000.00**

Amend 455B.109(1) to raise the maximum penalty figure permissible under administrative order to \$10,000.00. Penalties collected would be deposited into the Environmental Trust Fund listed above.

The Federal Clean Air Act, as recently reauthorized by Congress, requires states to be able to assess fines of this magnitude through administrative order. It is expected that similar requirements will be included in the pending reauthorization of the Federal Clean Water Act, and can be expected to be a part of reauthorization of other federal laws in the future. If the state does not obtain this authority, the department's only recourse will be to refer all enforcement actions under these federally delegated programs to the Attorney General. This process would undermine the intent and purpose behind the administrative penalty concept, which is to avoid costly and time consuming litigation for both the state and the regulated party. In addition, there are cases where a fine greater than \$1,000 is warranted, but referral to the Attorney General could mean very severe penalties, i.e., \$5,000 per day. Increasing the administrative penalty amount would provide a middle ground.

Providing for this type of possible administrative penalty does not mean that it will be used in all cases. Appeal rights, pursuant to the Iowa Administrative Procedures Act, will still exist, thus protecting a regulated party's due process rights.

**AIR QUALITY AUTHORITY CORRECTIONS NECESSARY TO IMPLEMENT THE NEW FEDERAL CLEAN AIR ACT**

Amend Division II of Chapter 455B ( 455B.131 - 170) to:

- (1) Provide authority to the department to issue general permits.
- (2) Provide for criminal penalties for permit violations.
- (3) Eliminate provision requiring permit action within 120 days or grant a permit by default.
- (4) Authority to create a Small Business Technical And Compliance Assistance Program.

- (5) Update the reference to the Federal Clean Air Act from January 1979 to November 1990.
- (6) Authority to impose emission credits for sources subject to acid rain provisions of the Clean Air Act.

These amendments will be needed to allow the state to retain delegation of authority to administer provisions of the Federal Clean Air Act, as recently reauthorized, in Iowa. These changes are necessary to keep our statutory authority equivalent to the federal authority, which is a prerequisite to delegation of authority. By federal law, we are to submit an application for continued delegation to EPA by November 1992; thus it is essential that we get these changes made during this upcoming session.

#### **UNDERGROUND STORAGE TANK LAW AMENDMENTS**

Amend 455E.11 to increase the portion of the Underground Storage Tank Management Account allocated to DNR from the present 23% to 40%.

The underground storage tank program has been funded primarily from the federal UST/LUST grant funds that Iowa receives. Originally, these funds came as 100% federal grants. This has now been changed to require a 10% state match on those federal funds, which are used to support staff as well as for cleanup of contamination situations. State funding for underground storage tank activities has been derived by allocating a percentage of the state tank registration and tank management fees to DNR. The current allocation does not provide sufficient state monies to match all federal funds allocated to the state. These funds are necessary to operate the current program as mandated by federal and state law, including cleanup of contamination situations not covered by state insurance or responsible parties.

#### **WATER SUPPLY / WATER WITHDRAWAL PROGRAM AMENDMENTS**

(1) Eliminate the requirement that the department update the state water plan every 5 years (455B.262). This is a state, not a federal, mandated function. As such, no federal grant funding can be used to defray the cost of preparing these plan updates, and all costs associated with this work are paid from state general fund appropriations. Due to budget reductions, staff reductions and staffing constraints, resources simply are not available to perform these updates.

(2) Eliminate the requirement that the department sample water supplies every three years for the presence of ten pesticides and ten synthetic organic compounds (455B.173(6)(b)). This provision was embodied in Iowa law before the U.S. EPA began adopting regulations requiring public water supplies to monitor for over 80 separate synthetic organic compounds. Public water supplies now monitor for a broad range of compounds, which makes this provision duplicative and contradictory to federal requirements which the department is also charged with administering.

(3) Eliminate provision in the water withdrawal program which requires the department to issue new permits within 90 days and renewals within 30 days or grant a permit by default (455B.265). The water withdrawal program is a state program funded entirely by state general fund appropriations. Budget reductions and down sizing of government has drastically reduced staffing of this program. State law requires that the department conduct detailed investigations, conduct public notice and comment, and make specific findings prior to issuance of these permits. This simply cannot be accomplished in many instances with available staff. The department's options, therefore, are either to deny permits because of lack of time to conduct the proper investigations and actions required by law, or to issue permits without following the technical and procedural requirements. This can serve to work hardship on the permit applicants, other water users or both. If the legislature does not want to change this provision, they should then amend existing statute to eliminate most of the procedural requirements prerequisite to permit issuance. This would effectively change the program from one of permitting water uses to a simple registration of water uses.

(4) Authorize the department to deny permits for public water supplies which are not viable, including authority to require systems which are not viable to close within a set schedule (455B.171 - 210). Many of the public water supplies in Iowa are very small and poorly funded. This is especially true of non-community public water supplies and very small community water supplies. These supplies are so poorly equipped and under funded that they really can't serve as a viable public water system and comply with applicable state and federal laws and regulations. These systems take an inordinate amount of staff and financial resources to provide surveillance, technical assistance and enforcement in order to ensure that users of those supplies are provided a safe and healthy potable water source. This bill would allow the department to deny permits to non-viable water supplies which will require users to seek more viable and reliable drinking water sources. Several other states have this type of authority.

**WASTEWATER PROGRAM AMENDMENTS**

(1) Eliminate the ten year moratorium provision in the wastewater permitting program which prohibits the department from requiring compliance with more stringent effluent limits for ten years after construction (455B.173(2)). This provision is not consistent with the Federal Water Pollution Control Act, which may well jeopardize continued delegation of federal wastewater permitting authority to the state. This provision can also serve to prevent the department from requiring implementation of needed controls on wastewater treatment systems which are needed to protect public health and safety, and the environment.

(2) Provide the department with additional authority in the wastewater program to determine when permits will not be issued (455B.171 - 210). The concept here is similar to the provision in water supply which would allow the department to deny a permit to systems which are not viable wastewater treatment systems. In addition, it would allow the department to exempt certain types of discharges from the need to obtain a permit.

**SPECIAL WASTE AUTHORIZATIONS/FLOW CONTROL OF SOLID WASTE**

Last session a bill was introduced which would reform the special waste authorization program, and to control the flow of solid waste into and within Iowa. The bill, however, was very complicated and extremely costly. Since these issues will probably be raised again in 1992, it would be advantageous to have reasonable alternative(s) ready.

**LEGAL CORRECTIVE AMENDMENTS**

(1) Add "109B" (commercial fishing chapter) to contested case authority of NRC under 455A.5(6)"b".

(2) Add the word "permits" to the list of actions which can be dealt with using administrative orders / attorney general referrals in section 455B.279(1).

(3) Amend 455B.278(1) by deleting the phrase "and opportunity for public hearing".

The above amendments would provide clarification of authority. (1) merely adds commercial fishing violations to the other violations that can be appealed to the NRC; (2) and (3) pertain to flood plain and water rights law - adding the word permits (#2) would specifically add permit violations to the types of violations

which can be dealt with using administrative orders and actions by the Attorney General, and eliminating "public hearing" before the decision on a permit is made (#3) would be consistent with the procedure the department now follows.

### WASTE REDUCTION AND RECYCLING INCENTIVES

(1) Require deposits on household batteries, similar to bottle deposits, with the responsibility for recycling on the battery manufacturer. A mechanism for recycling lead acid batteries (e.g. auto batteries), which puts the responsibility upon the manufacturer, is already in place. A deposit system would provide a mechanism for eliminating household batteries from landfill disposal.

(2) Require all county seats and cities over a minimum population to have waste oil collection sites. This would alleviate the problem with the current shortage of sites available throughout the state.

(3) Revise 455D.11 (tire provisions) to clear up inconsistencies and problem language. Two changes would be beneficial here; (a) exclude non-pneumatic tires from the definition of waste tires, and (b) revise the definition of waste tire collector from an individual that collects/stores 50 tires, to someone handling 500 tires. Non-pneumatic (solid rubber) tires are not being accepted by many tire recyclers, so the landfill disposal ban severely limits disposal options for these tires. As for the definition of waste tire collector, 50 tires is a very small number to handle before falling under the definition of collector.

(4) Strengthen language regarding waste reduction and recycling goals. By July 1st of this year, all sanitary disposal projects must develop a comprehensive plan detailing how solid waste would be managed, including establishing a solid waste reduction program (455B.306). These plans must be fully implemented by 1997. In order to assure that comprehensive solid waste reduction programs will be established and operated by sanitary disposal projects, the statutory language could be strengthened by adding specific actions (e.g., establish a source separation program) which must be undertaken as part of an approved comprehensive plan.

(5) Establish flow control of recyclables. This year a bill was introduced which would permit local governments to form public service monopolies for all solid waste management projects (presently, Chapter 28G permits this for resource recovery facilities only). Authority for forming a 28G could be expanded to include recyclable materials.

DRAFT - 9/4/91

**CHANGING NAME OF WMAD**

Eliminate the word 'authority', or replace it with 'assistance'. This would make the name of the waste management division consistent with the other division names in the department.

Mr. Combs stated that he would like direction from the Commission as to which legislative proposals they want drafted as bills. He noted that he received comments from representatives of Rural Electric Cooperatives indicating they had some concern about the fees portion of the Environmental Trust Fund legislative proposal. They are concerned about paying fees in addition to the taxes and other fees that are already paid.

Discussion followed regarding a trend going in the direction of user fees, and the Commission's authority to charge fees.

Margaret Prah1 commented that she concurs with the trust fund concept and would support the fees issue if it is tied to a performance standard on the part of the department. She added that the Environmental Trust Fund concept should be separate from the fees concept.

Mr. Stokes stated that he does not have a problem with performance standards as long as he has the resources to meet those standards.

Discussion followed regarding the projected amount of money to be raised through fees, effects on the permit program if administered by EPA, and how the fee amount is determined.

Mr. Combs suggested that the staff draft a proposal for the trust fund and provide several options on how to fund it. He added that fees can be set up in several ways and these options can be brought next month for the Commission's review.

Margaret Prah1 suggested that the fee amount be in relation to the amount of time one would have to wait for a permit, such as paying more to get a permit faster.

Mr. Stokes encouraged the Commission not to take that step because it would send a very bad message to small and medium size businesses in that large corporations can better afford to pay a larger amount for a speedy permit. He added that small businesses or individuals would have to wait a whole lot longer to get their permits.

*Motion was made by Margaret Prah1 to ask the staff to prepare legislation that would establish an Environmental Trust Fund with decision point options showing how it would look if funded by existing fees and what kind of fees would be needed to get to*

certain levels of the trust fund, and to also tie the size of the fee to some performance standards. Seconded by William Ehm. Motion carried unanimously.

It was decided that the remainder of the Legislation Package will be taken up later in the day.

STREAM USE DESIGNATION: SOUTH SKUNK RIVER - VICINITY OF AMES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

At the July meeting, the Commission requested that both the Department staff and the City of Ames make presentations on the proposed designated use of the South Skunk River near Ames. The Department had proposed the South Skunk River be designated as a Class B(WW) Significant Resource warm water stream. The City of Ames believed that a Class B(LR) Limited Resource designation was more appropriate. Presentations will be made by both the Department staff and the City of Ames. The Department's presentation will include background information, field evaluation data, and the basis for the recommended use designation.

The EPC is requested to approve a Notice of Intended Action for Chapter 61, Water Quality Standards, which would propose a use designation for the South Skunk River from the mouth of Indian Creek in Jasper County to the Ames Water Works Dam in Ames. The use designation will be decided by the Commission after the presentations and would be either Class B(WW) Significant Resource as the Department proposes or B(LR) Limited Resource as the City of Ames proposes.

Mr. Stokes explained that this item that came before the Commission two months ago along with other water bodies that were up for stream use designation. He related that the issue of the use designation and its impact on the Ames treatment facility was at question and the Commission sought additional information. He noted that, following the Commission's direction on which way they want to go, it will be brought back as a Notice of Intended Action next month.

APPOINTMENT - TOM NEWMAN

Tom Newman, Water Pollution Control Director for the City of Ames, introduced Dr. Robert Bowman, retired ISU staff member and Dr. Bruce Menzel, ISU staff member. Mr. Newman presented the city's views regarding the potential aquatic resource of the

South Skunk River and what they feel is the appropriate use classification. He gave a slide presentation showing the reach of the South Skunk River from the confluence of Indian Creek near Colfax to the Ames water works dam. He noted that this reach has three distinct segments exhibiting different characteristics and different aquatic resource potential, and he expanded on each of those points. Mr. Newman stated that about one-half of this reach can appropriately be classified as B Warmwater Significant Resource, and the remainder is a channelized drainage ditch that is more appropriately classified as B Limited Resource. Mr. Newman distributed copies of a memo from the ISU ad hoc committee studying this issue.

#### APPOINTMENT - DR. BRUCE MENZEL

Dr. Bruce Menzel, Ichthyologist from Iowa State University, stated that one of the the issues the Commission needs to decide relates to biological and ecological questions. He asked the Commission to bear in mind that this is dealing with an area that has considerable differences in the type of aquatic habitat that are presented. He focused on a response by DNR, to the City of Ames, in which a 1986 report by Vaughn Paragamian was cited. He stated that Mr. Paragamian noted that habitat is a major factor responsible for the distribution and abundance of fishes, that stream channelization significantly affects this by reducing the species numbers and their abundance, and that in these channelized areas there is a tendency to find the opposite of a balanced population of fishes. Primarily, they are small nongame species, not sport fishes. Dr. Menzel described fish collection techniques used by fish biologists to obtain data. He related that the data showed a standing stock figure with an inference that it represented a total standing stock, when in fact, it only represented small fishes. He pointed out that in looking at the more complete data set it shows that the game fishes represent a very small proportion of the standing stock. Dr. Menzel noted that site A, above the Skunk River, contains large numbers of small fish at this site, primarily small minnows and suckers. He added that there is very little in the way of game fish. Dr. Menzel stated that according to this data, it is the largest standing stock of fishes anywhere in the state of Iowa. He indicated that there is something unusual in this data. Dr. Menzel quoted from Paragamian's study regarding a balanced fish community noting that the trophic structure of fish communities was typically pyramid shaped and he explained same. He pointed out a site in the Skunk River and noted that there is a significant deviation in this trophic structure from the typical pattern with the community being illuminated by insectavores. Dr. Menzel noted that a study made by one of his former students shows that the reproduction of fishes in the area above the city involves many more species and is more abundant than in areas to the south of Ames.



Margaret Prah1 asked if three of the four sample sites were upstream of I-35.

Dr. Menzel stated all four samples were upstream of I-35 but three of the samples were within one-half mile of where the dam is located, at the upper end of the segment proposed for classification. He added that the significance of that is they did not get into the channelized ditch area to see the distinct difference between what the city would consider to be an appreciatively tolerable, biological community north of I-35, and a channelized ditch with very limited biological community south of I-35.

Margaret Prah1 asked what the stream designation means to the City of Ames.

Mr. Newman explained that based on the information the city was given by DNR, the city's current discharge limits would be cut by more than 50%.

John Olson, Environmental Specialist, Environmental Protection Division, presented the department's view on this issue stating that on October 31, 1990, he and another staff member conducted a stream use assessment in Ames as part of a three year statewide review of stream use designations. He focused on the changes in the use designation for Class B Warmwater. Mr. Olson explained that prior to 1990, all warmwater streams had one designation which was Class B Warmwater. In 1990, this was divided into three categories which was Significant Resource (Class BWV), Limited Resource, and another category for lakes and wetlands. He added that Significant Resource water is a fishable water and Limited Resource streams have certain physical limitations which prevent the existence of game fish in them. He presented a slide show depicting examples of stream types and described their classifications. He explained how the survey was made and all aspects they covered. Mr. Olson stated that in doing assessments to determine appropriate use of an area, staff base their recommendations on the highest quality habitat for fishery available, and all areas downstream would then receive that designation. Mr. Olson showed slides of each of the four segments of stream surveyed by staff and noted which species were found at each site. He stated that staff recommendation was to have the South Skunk designated as a Significant Resource stream from the Ames water works dam down to Colfax. Mr. Olson stated that staff used the Paragamian-1986 study to show that there is a diverse community down stream from Ames in the Ames to Cambridge channelized portion. He related that there are certain areas of habitat available in that portion of the stream.

Discussion followed regarding when channelization was done and also when maintenance work was done; the best habitat areas of the stream; the number of miles of streams classified to date;

and the issue of classification as well as the issue of protected flow.

William Ehm asked if low flow is dealt with in the stream classification or only in the City's permit.

Mr. Olson responded that the City of Ames has proposed that a protected flow of 5 cfs be applied to the river and that is higher than the protected flows that have been put on streams in the past. He added that DNR staff feel that at 2 cfs the aquatic warm water community will receive sufficient protection.

William Ehm asked if both the classification and flow issues will affect the City of Ames financially and economically.

Mr. Stokes explained how each classification and flow limits could affect the City of Ames.

*Motion was made by Margaret Prah1 to ask staff to prepare rules to designate the entire stream from Colfax to the lowhead dam as a Limited Resource with the protected flows recommended by the staff. Seconded by Nancylee Siebenmann.*

Chairperson Hartsuck asked if the motion was for Limited Resource with 2 cfs flow.

Commissioner Prah1 responded in the affirmative.

*Motion carried unanimously.*

#### REFERRALS TO THE ATTORNEY GENERAL--DON ERVIN

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Commission tabled this item last month. The Commission must remove it from the table prior to further discussion and action. Previously provided litigation reports and inspection reports will be provided to the Commission. Staff will be prepared to review the history and current status of all aspects of this case.

Chairperson Hartsuck reminded the Commission that this item was tabled last month and will have to be removed from the table if the Commission wishes to act on it.

*Motion was made by Margaret Prah1 to remove the Don Ervin referral from the table. Seconded by Clark Yeager. Motion carried unanimously.*

Mike Murphy presented a history of this case noting that it has previously been before the Commission three times. He showed a videotape of Mr. Ervin's facility and explained that the first segment shows the tire pile during the summer of 1990, just prior to the first request for referral in September, 1990. Mr. Murphy noted that the Commission tabled the referral for 90 days at that time, which turned into five months. The referral was brought back before the Commission in February, 1991. The second segment of the videotape shows the size of the tire pile in January, 1991, which indicated the number of tires was not reduced but some progress was made in establishing fire lanes, even though the lanes were not adequate at that time. The third segment shows the tire pile as of July, 1991, which depicts no fire lanes at all, just a raceway around a huge tire pile in the foreground. The rear tire pile shows a conveyor belt that piles the tires higher and higher, again with no fire lanes. Mr. Murphy noted the number of tires is presently estimated to be 800,000 to one million. He added that under permit conditions the tire piles are much too large, averaging about 15 feet in height, and fire lanes are not adequate. Mr. Murphy noted that the additional penalty information requested by the Commission last month was provided to them. The

Attorney General's Office has filed for a temporary injunction to restrict any additional tires from being brought in and also for restoration of the fire lanes. Mr. Murphy stated that staff is requesting referral primarily as support of the Attorney General's action.

Margaret Prahl asked why this case is back before the Commission when the Attorney General's Office has already taken the case.

Mr. Murphy stated that the Attorney General will go on irrespective of what the Commission does, but staff feel it is important for the Commission to lend support to the Attorney General's actions. He added that it could be a factor in the judge's decision if the Commission does not lend support to the Attorney General's decision.

#### APPOINTMENT - DAVE SHERIDAN

Dave Sheridan, Attorney General's Office, reported that the briefs were due today for the temporary injunction. He stated that the Attorney General's office has great concerns about this case and the public perception of it. He pointed out the following statement of facts: 1) Mr. Ervin has a permit and that permit is the law, it provides that he should have 40,000 tires; 2) by his own statement, he has over one million tires; and 3) the permit, in addition to limiting the number of tires, makes specific requirements about fire lanes. The fire lane specifications were recommended by the engineering consultant for Mr. Ervin, were approved by the DNR and incorporated into the

permit, and they are law. Mr. Sheridan stated that Mr. Ervin's statement in the press, if in fact he said it, that he has always maintained fire lanes is false. He related that Mr. Ervin has never maintained fire lanes as he agreed and as required by law under the permit. Mr. Sheridan stated that the Attorney General's Office has filed suit and will proceed whether or not the Commission refers it. He related that there are one million facts out in Mr. Ervin's field, every one of them is a tire, and every one of them is an insult to the environment, public safety, the Commission, and to the law. Mr. Sheridan asked the Commission to join the Attorney General in supporting the enforcement of the law.

Discussion followed regarding the temporary injunction, the large increase of tires above what was allowed by law, and who will pick up the tab if the company goes out of business.

#### APPOINTMENT - DON ERVIN

Don Ervin, Owner of Midwest Tire and Recycling, addressed the Commission stating that, as of Friday, there will be no more tires going into his facility. He reviewed reasons why he has accumulated the large number of tires citing failure to get a grant, as well as something new coming up every week to prevent the company incorporating with new owners. Mr. Ervin noted that he is not taking anymore new tires until he gets his new grinder in. He stated that he has been shipping some tires to Mexico and some tubes to Mississippi.

Margaret Prah1 commented that Mr. Ervin stated in November, 1990, that he would be shredding 80,000 tires in ten days to get down to the permitted 40,000, and in reviewing the situation nothing was done.

Mr. Ervin stated that there is probably between 250,000 - 300,000 tires shredded on the site. He noted that another thing that came up with the Attorney General's Office was their asking for the company's financial records. Mr. Ervin related that he told his attorney, Joe Coleman, that if nothing else comes out of the trial he wants everybody to audit those records so they will know that every dime has stayed in the company. He stated that his financial records are at his attorney's office, and the Commission, or anyone else, is welcome to go through every one of them.

APPOINTMENT - HOLLIS DEVOE

Hollis DeVoe, Ecology Enterprises, Inc., addressed the Commission stating that he wants to clarify what type of technology has been available the last three years that Mr. Ervin has been striving for, and that his company possesses. Mr. DeVoe explained that gas pyrolysis of coal is a thermal destruction of organic materials to turn it back into its original state from where it came. He further explained the technology, financing, marketing, etc., his company used to develop this process. He noted that the status of his company commencing operations is 30 days or less and Ecology Enterprises will be ready to take over Midwest Research and Recycling in October. Mr. DeVoe will build an 80' by 300' building that will hold over 2 million tires, and security will be provided. He related that two of Ecology Enterprises plants could get rid of all of Iowa's tires.

CLOSED SESSION

*Motion was made by Gary Priebe to go into closed session pursuant to Iowa Code Section 21.5(1)c to discuss strategy with counsel in matters that are in actual or potential litigation where its disclosure would be likely to prejudice the position of the governmental body in that litigation. Seconded by Rozanne King.*

*Chairperson Hartsuck requested a roll call vote. "Aye" vote was cast by Commissioners Mohr, Prahl, Priebe, Siebenmann, Yeager, Ehm, King, and Hartsuck. Motion carried unanimously on a vote of 8-Aye.*

*Motion was made by Charlotte Mohr to adjourn closed session and return to open session. Seconded by Nancylee Siebenmann. Motion carried unanimously.*

*Chairperson Hartsuck announced that no action was taken in closed session.*

~~*Motion was made by Margaret Prahl for referral to the Attorney General's Office for the violations that have occurred since the first referral and for all the other violations that have occurred on this permit, and recommend that the penalty be the highest penalty permitted by law. Seconded by Nancylee Siebenmann. Motion carried unanimously.*~~

Fred R. Thomas

*Mr. Murphy stated that the requirements of the Administrative Order issued in this case have been complied with except for sub-*

mittal of proof of public notice and payment of the penalty. He noted that there was no appeal of the Administrative Order. Referral is being asked for payment of the penalty and to obtain proof of giving public notice for monitoring deficiencies.

Fred Thomas, owner of Freddy's Beach, Delhi, Iowa, displayed a map and pointed out where he installed water lines in 1950. He stated that his records indicate that he takes monthly tests of the water, but he did not put notice of deficiencies in the newspaper and that is all that is against him. Mr. Thomas noted that there are 24 wells on his property that he sold to other individuals and none of them are required to have a public water supply system. He stated that he called Jerry Rattenborg and Ron Stelleck and told them he had a problem and invited them down but he has not seen either one of them.

Brief discussion followed.

*Motion was made by Nancylee Siebenmann for referral to the Attorney General's Office. Seconded by Charlotte Mohr. Motion carried unanimously.*

#### SHIPLEY CONSTRUCTION WATER WITHDRAWAL PERMIT

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Mr. Stokes informed the Commission that the department's involvement with Shipley Construction began in December, 1990, when an application was received for construction of a sand and gravel reclamation operation on a floodplain. In March, 1991, in response to local citizen complaints, an inspection was conducted and staff found some work had begun in the floodplain. On April 1, 1991, a letter was sent to Shipley Construction telling them to cease construction until it could be determined whether activities were relative to the floodplain, whether or not the construction was regulated by the department, and if a permit was needed. On April 12, 1991, the department notified Shipley Construction that they did not need a permit for the floodplain work they were doing. Local residents continued to complain about the eyesore the construction would create. On June 27, 1991, an application was received for a water withdrawal permit. In July, as required by law, the department published an intent to issue a permit. During the comment period twelve comment letters were received citing potential for water quality and water quantity problems. There was no request for a public hearing.

Nancylee Siebenmann commented that she has received nine to ten letters on this matter asked if it might help to have a public hearing in that area.

Mr. Stokes stated that the department is planning to hold a public hearing.

This was an informational item; no action was required.

#### EDWARD CAIN CHANNEL CHANGE

Mike Murphy, Bureau Chief, Legal Services Bureau, presented the following item.

The Commission has requested that the Edward Cain channel change matter be placed on the agenda for discussion. The Department discovered the straightening of two meander loops on Deep Creek on the Cain property in Clinton County, in December 1987. He was given the option of restoring the meanders or applying for an after-the-fact permit. He applied for a permit in February, 1988, and after further communications the permit was denied in November, 1988. Mr. Cain had been given the option in that process to restore just one of the meanders, but refused to do so. Mr. Cain appealed the permit denial, and after hearing the Administrative Law Judge affirmed the Department's decision, in October, 1989. Mr. Cain did not appeal that decision. In January, 1990, the Department delayed referral to the Attorney General based on verbal assurances of Mrs. Cain that restoration work would be done. Mr. Cain had recently been injured in a farm accident. An administrative consent order was prepared and sent to the Cains, but ultimately they would not agree to it. Staff requested the Commission to refer the matter to the Attorney General in March, 1991, at which time the matter was fully explained. The Commission voted unanimously to refer. The Attorney General discussed the matter with Mr. Cain in attempt to resolve it informally. Mr. Cain refused to comply and the Attorney General filed a lawsuit to enforce the law, on August 19, 1991.

Mr. Murphy presented an overview of what has transpired in this case and related that Cynthia Cain would like to address the Commission.

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#### APPOINTMENT - CYNTHIA CAIN

Cynthia Cain Ioannacci, daughter of Edward and Margaret Cain, stated that she would like to emphasize certain points she would like the Commission to consider. She stated that Representative Robert Johnson would like to address the Commission and she introduced him.

APPOINTMENT - REPRESENTATIVE ROBERT JOHNSON

Robert Johnson, State Representative, addressed the Commission stating that when he first became aware of this problem he called the Governor's Office, Larry Wilson and Allan Stokes that same day. Additionally, he visited with the Cain's in the next couple of days. Representative Johnson related that the neighbors took up a petition with 1,800 signatures which he then presented to Larry Wilson. He stated that he called Charlotte Mohr and asked her to tour the Cain's property with him. Representative Johnson related that Commissioner Mohr, in turn, stated that she would try to get the issue on the EPC agenda. He stressed that it really bothers him that tax dollars are being spent to pursue this issue at a time when the state is in a budget crisis. He noted that contrary to what people believe, the Iowa farmer does take care of the land. Representative Johnson stated that the yield continues to escalate when Mother Nature cooperates, but there are times when Mother Nature needs help and that is what Mr. Cain was doing on this project....trying to help Mother Nature. In conclusion, he reasoned that this would be a perfect time for the Commission to show the people of Iowa that they are flexible and that they are willing to work for the good of all of Iowa, including the Iowa farmer. He urged the Commission to relieve the Cain family of their burden in this issue.

CYNTHIA CAIN

Cynthia Cain addressed the Commission telling of her parents' recent physical and financial hardships. She related that her mother is the sole caregiver to her father who is a paraplegic. Additionally, her mother suffers from cancer and is undergoing treatment. She reviewed points made in a letter she wrote the Commission on September 11, 1991. Ms. Cain noted that when the channel change was made in 1987 her father did not know a permit was needed. She explained that her parents find the compromise offered by DNR unacceptable because the requirement to perpetually maintain plugs in the new channel places them in an extreme financial burden, and they do not view this as a viable option as it does not present final resolution to the dispute. Ms. Cain circulated photographs showing vegetation growing on the new banks of the channel and related that there is evidence of wildlife in the area. She added that a report conducted by DNR staff on September 3, 1991, supports that finding. She related that her parents are reluctant to change the channel back to its original status in light of the fact that nature has already adjusted to the change. Ms. Cain stated that the new channel flows directly under a bridge maintained by Clinton County and if the old channel were restored it would meander out of alignment with the bridge and cut into its abutment, endangering the traveling public. She added that Clinton County Engineer, Larry



Matish, advised her father that if the creek meandered and cut into the bridge abutment the action they would take would be a channel change. Furthermore, because the current channel does not present any alignment problems, he recommended to her father that the old channel not be restored. In support of that point, Ms. Cain circulated an affidavit from Larry Matish. Ms. Cain asked the Commission to give this case special consideration because of the extraordinary circumstances involved. She noted that Representative Johnson made the point that his constituents view the DNR as unreasonable, and by making exception for her parents the DNR would gain a lot of credibility and respect and it would work to their advantage in further negotiations with people in the future. Ms. Cain asked the Commission to recall this matter from the Attorney General's Office and place it on their October meeting agenda for a final decision.

Charlotte Mohr stated that she toured the area and visited with Mr. and Mrs. Cain and was pleased to see the filter strips next to the row crops. She related that Mr. Cain told her that, prior to the channel change, he had to replace a fence three out of four years because of erosion in the creek. Commissioner Mohr recommended that the Commission review the issue and consider Cynthia Cain's recommendation. She added that she feels it would be a distinct hardship mentally, financially, and physically on the family.

William Ehm asked if the Commission has the authority to overturn the referral made in April, 1991.

Mr. Murphy responded that the Commission is free to do as they please. He added that it is unprecedented to withdraw a referral.

*Motion was made by Charlotte Mohr to put the Ed Cain Channel Change item on the agenda for October. Seconded by Gary Priebe.*

Margaret Prah1 asked to hear from the Attorney General's Office on this issue.

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#### APPOINTMENT - MIKE VALDE

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Mike Valde, Attorney General's Office, stated that a petition was filed to begin the lawsuit. He added that the Attorney General's Office has been trying to reach a reasonable resolution and has agreed to delay the time for filing an answer to the end of September. He related that his office is willing to listen to the staff and department and decide how to proceed.

Director Wilson commented that it is misleading to believe, in reference to a comment made by Ms. Cain, that how the Commission

decides this issue will make the DNR more popular. He added that it is a decision the Commission has to make but to think that all of a sudden the DNR is going to become the most loved state agency in Eastern Iowa, that is not the case. Mr. Wilson added that he has nothing against bringing the issue back for review.

*Vote on Commissioner Mohr's motion to put the matter on the October agenda carried unanimously.*

*Motion was made by Margaret Prah1 to request the Attorney General not to take any action to default the Cain's or to cause them further legal expenses until the October commission meeting. Seconded by Rozanne King. Motion carried unanimously.*

#### 1992 LEGISLATION PACKAGE (continued)

##### Increase the Maximum Penalty that can be Assessed by Administrative Order from \$1,000.00 to \$10,000.00

Nancylee Siebenmann stated that she would be in favor of this proposal but would not want the \$10,000 penalty for a fairly minor violation.

Mr. Combs stated that the penalty would be equated to severity, frequency of violation, and other factors.

Nancylee Siebenmann asked that that be noted in the legislative proposal.

Consensus of the Commission was to draft a legislative bill for this proposal.

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##### Air Quality Authority Corrections Necessary to Implement the New Federal Clean Air Act

Consensus of the Commission was to draft a legislative bill for this proposal.

##### Underground Storage Tank Law Amendments

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Consensus of the Commission was to draft a legislative bill for this proposal.

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##### Water Supply/Water Withdrawal Program Amendments

Consensus of the Commission was to draft a legislative bill for numbers (1) and (2). In regards to number (3), the Commission agreed to include a proposal to initiate a mandatory permit fee to support staff in issuing permits.

Following a lengthy discussion of number (4), with the Commission divided on support of this issue, it was decided that staff should bring back a draft bill and the Commission will then make a decision on whether or not to go with it.

#### Wastewater Program Amendments

Margaret Prah1 stated that she would like to see the federal provision that is not consistent with the ten year moratorium provision. Consensus of the Commission was to draft a legislative bill for this proposal.

#### Special Waste Authorizations/Flow Control of Solid Waste

Mr. Combs stated that this is merely a notation to let the Commission know what is happening in this area and staff does not intend to draft legislation on it.

#### Legal Corrective Amendments

Consensus of the Commission was to draft a legislative bill for number (2) and to delete number (3).

#### Waste Reduction and Recycling Incentives

Consensus of the Commission was to draft a legislative bill for numbers (3) and (5). On item number (1), the consensus was to draft legislation with the provision that retailers be required to have a collection center for used batteries. On item number (2), the consensus was to draft legislation with the provision that all retailers be required to take waste oil back. On item number (4), the consensus was to draft legislation with the deletion of establishing a source separation program.

#### Changing Name of WMAD

Consensus of the Commission was to draft a legislative bill for this proposal.

This was an informational item; no action was taken.

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#### NEXT MEETING DATES

October 21-22, 1991  
November 18-19, 1991  
December 16-17, 1991

ADJOURNMENT

*Motion was made by Charlotte Mohr to adjourn the meeting.  
Seconded by Nancylee Siebenmann. Motion carried unanimously.*

With no further business to come before the Environmental Protection Commission, Chairperson Hartsuck adjourned the meeting at 4:50 p.m., Monday, September 16, 1991.

  
\_\_\_\_\_  
Larry J. Wilson, Director

  
\_\_\_\_\_  
Richard Hartsuck, Chairperson

  
\_\_\_\_\_  
Nancylee Siebenmann, Secretary

September 1991

Environmental Protection Commission Minutes

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